

AN ACT

relating to the licensing and regulation of prescribed pediatric extended care centers; providing penalties; imposing fees.

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

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

1 Commission.

2 (4) "Commissioner" means the commissioner of aging and
3 disability services.

4 (5) "Controlling person" has the meaning assigned by
5 Section 248A.0012.

6 (6) "Department" means the Department of Aging and
7 Disability Services.

8 (7) "Executive commissioner" means the executive
9 commissioner of the commission.

10 (8) "Medically dependent or technologically dependent
11 minor" means a minor who because of an acute, chronic, or
12 intermittent medically complex or fragile condition or disability
13 requires ongoing, technology-based skilled nursing care prescribed
14 by the minor's physician to avert death or further disability or the
15 routine use of a medical device to compensate for a deficit in a
16 life-sustaining body function. The term does not include minor or
17 occasional medical conditions that do not require continuous
18 nursing care, including asthma or diabetes, or a condition that
19 requires an epinephrine injection.

20 (9) "Minor" means an individual younger than 21 years
21 of age.

22 (10) "Prescribed pediatric extended care center"
23 means a facility operated for profit or on a nonprofit basis that
24 provides nonresidential basic services to four or more medically
25 dependent or technologically dependent minors who require the
26 services of the facility and who are not related by blood, marriage,
27 or adoption to the owner or operator of the facility.

1 Sec. 248A.0012. CONTROLLING PERSON. (a) A person is a
2 controlling person if the person has the ability, acting alone or in
3 concert with others, to directly or indirectly influence, direct,
4 or cause the direction of the management of, expenditure of money
5 for, or policies of a center or other person.

6 (b) For purposes of this chapter, "controlling person"
7 includes:

8 (1) a management company, landlord, or other business
9 entity that operates or contracts with another person for the
10 operation of a center;

11 (2) any person who is a controlling person of a
12 management company or other business entity that operates a center
13 or that contracts with another person for the operation of a center;
14 and

15 (3) any other person who, because of a personal,
16 familial, or other relationship with the owner, manager, landlord,
17 tenant, or provider of a center, is in a position of actual control
18 of or authority with respect to the center, regardless of whether
19 the person is formally named as an owner, manager, director,
20 officer, provider, consultant, contractor, or employee of the
21 center.

22 (c) Notwithstanding any other provision of this section,
23 for purposes of this chapter, a controlling person of a center or of
24 a management company or other business entity described by
25 Subsection (b)(1) that is a publicly traded corporation or is
26 controlled by a publicly traded corporation means an officer or
27 director of the corporation. The term does not include a

1 shareholder or lender of the publicly traded corporation.

2 (d) A controlling person described by Subsection (b)(3)
3 does not include a person, including an employee, lender, secured
4 creditor, or landlord, who does not exercise any formal or actual
5 influence or control over the operation of a center.

6 (e) The executive commissioner may adopt rules that define
7 the ownership interests and other relationships that qualify a
8 person as a controlling person under this section.

9 Sec. 248A.002. EXEMPTIONS. This chapter does not apply to:

10 (1) a facility operated by the United States
11 government or a federal agency; or

12 (2) a health facility otherwise licensed under this
13 subtitle.

14 Sec. 248A.003. CONFLICT WITH LOCAL LAWS. To the extent of
15 any conflict between the standards adopted under this chapter and a
16 standard required in a local, county, or municipal ordinance, this
17 chapter controls.

18 SUBCHAPTER B. LICENSING OF CENTERS

19 Sec. 248A.051. LICENSE REQUIRED; PREMISES RESTRICTION.

20 (a) A person may not own or operate a prescribed pediatric
21 extended care center in this state unless the person holds a license
22 issued under this chapter.

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

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

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

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

5 Sec. 248A.052. APPLICATION; ISSUANCE. (a) An applicant
6 for a prescribed pediatric extended care center license shall
7 submit to the department in accordance with executive commissioner
8 rules:

9 (1) a sworn application on the form prescribed by the
10 department;

11 (2) a letter of credit as prescribed by the department
12 to demonstrate the applicant's financial viability; and

13 (3) the required fees.

14 (b) The application must contain:

15 (1) the location of the premises of the center for
16 which the license is sought;

17 (2) documentation, signed by the appropriate local
18 government official, stating the location and use of the premises
19 meet local zoning requirements;

20 (3) the name, address, and social security number of,
21 and background and criminal history check information for:

22 (A) the applicant;

23 (B) the administrator responsible for daily
24 operations of the center;

25 (C) the financial officer responsible for
26 financial operations of the center; and

27 (D) each controlling person;

1 (4) the name, address, and federal employer
2 identification number or taxpayer identification number of the
3 applicant and of each controlling person, if the applicant or
4 controlling person is not an individual;

5 (5) the business name of the center;

6 (6) the maximum patient capacity requested for the
7 center; and

8 (7) a sworn affidavit that the applicant has complied
9 with this chapter and rules adopted under this chapter.

10 (c) The department shall issue a license to a center under
11 this chapter if the department determines that the applicant and
12 the center meet the requirements of this chapter and the rules and
13 standards adopted under this chapter. The license must include:

14 (1) the license holder's name;

15 (2) the location of the premises of the center; and

16 (3) a statement indicating the center provides
17 services to minors for 12 hours or less in a 24-hour period and does
18 not provide 24-hour care.

19 Sec. 248A.053. LICENSE TERM; RENEWAL; NOTIFICATION. (a) A
20 license issued under this chapter expires on the second anniversary
21 of the date of issuance.

22 (b) A person applying to renew a center license shall:

23 (1) submit a renewal application to the department on
24 the form prescribed by the department at least 60 days but not more
25 than 120 days before expiration of the license;

26 (2) submit the renewal fee in the amount required by
27 the department; and

1 (3) comply with any other requirements specified by
2 executive commissioner rule.

3 (c) The department shall assess a \$50 per day late fee to a
4 license holder who submits a renewal application after the date
5 required by Subsection (b)(1), except that the total amount of a
6 late fee may not exceed the lesser of 50 percent of the license
7 renewal fee or \$500.

8 (d) At least 120 days before expiration of a center license,
9 the department shall notify the owner or operator of the center of
10 the license expiration.

11 Sec. 248A.054. LICENSE NOT TRANSFERABLE OR ASSIGNABLE. A
12 license under this chapter is issued to the license holder named on
13 the license at the location of the premises listed on the license
14 and is not transferable or assignable.

15 SUBCHAPTER C. POWERS AND DUTIES OF

16 EXECUTIVE COMMISSIONER, COMMISSION, AND DEPARTMENT

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

20 (b) To protect the health and safety of the public and
21 ensure the health, safety, and comfort of the minors served by a
22 center, the rules must establish minimum center standards,
23 including:

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

27 (2) standards relating to the provision of

1 family-centered basic services that include individualized
2 medical, developmental, and family training services;

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

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

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

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

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

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

24 (9) standards relating to transportation services;
25 and

26 (10) standards relating to maintenance of patient
27 medical records and program records in accordance with other law

1 and with accepted professional standards and practices.

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

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

10 (a) The department may inspect a center, including its records, at
11 reasonable times as necessary to ensure compliance with this
12 chapter and the rules adopted under this chapter. The center shall
13 provide the department with access to all center records.

14 (b) The department shall inspect a center before issuing or
15 renewing a license under this chapter.

16 (c) The department may require a center that undergoes an
17 inspection to:

18 (1) take appropriate corrective action necessary to
19 comply with the requirements of this chapter and rules adopted
20 under this chapter; and

21 (2) submit a corrective action plan to the department
22 for approval.

23 (d) A center shall make available to any person on request a
24 copy of each inspection report pertaining to the center that has
25 been issued by the department. Before making an inspection report
26 available under this subsection, the center shall redact from the
27 report any information that is confidential under other law.

1 Sec. 248A.103. FEES. (a) The executive commissioner shall
2 set fees imposed by this chapter in amounts reasonable and
3 necessary to cover the cost of administering this chapter.

4 (b) A fee collected under this chapter shall be deposited in
5 the state treasury to the credit of the general revenue fund and
6 shall be appropriated to the department to administer and enforce
7 this chapter.

8 (c) A fee collected under this chapter is nonrefundable.

9 Sec. 248A.104. COMMISSION DUTIES. The commission shall
10 designate a center licensed under this chapter as a health care
11 services provider under the medical assistance program established
12 under Chapter 32, Human Resources Code.

13 SUBCHAPTER D. CENTER REGULATION

14 Sec. 248A.151. ADMISSION CRITERIA FOR MINOR CLIENT. (a) A
15 center may not admit a minor client to the center unless:

16 (1) the client is a medically dependent or
17 technologically dependent minor;

18 (2) the minor's prescribing physician issues a
19 prescription ordering care at a center;

20 (3) the minor's parent or legal guardian consents to
21 the minor's admission to the center; and

22 (4) the admission is voluntary based on the parent's or
23 legal guardian's preference in both managed care and non-managed
24 care service delivery systems.

25 (b) An admission authorized under this section is not
26 intended to supplant the right to a Medicaid private duty nursing
27 benefit, when medically necessary.

1 Sec. 248A.152. RESTRICTIONS ON HOURS, SERVICES, AND PATIENT
2 CAPACITY. (a) A center may not provide services to a minor for
3 more than 12 hours in any 24-hour period.

4 (b) A center may not provide services other than services
5 regulated under this chapter and executive commissioner rule.

6 (c) The maximum patient capacity at a center may not exceed
7 60.

8 Sec. 248A.153. LICENSE DISPLAY. Each center licensed under
9 this chapter shall display the center's license in a conspicuous
10 location readily visible to a person entering the center.

11 Sec. 248A.154. MAINTENANCE OF RECORDS. Each center shall
12 maintain at the center the medical and other records required by
13 this chapter and by rules adopted under this chapter.

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

19 Sec. 248A.156. COMPLIANCE WITH OTHER LAW. (a) A center
20 shall comply with Chapter 260A and rules adopted under that
21 chapter.

22 (b) An owner, center employee, or other person subject to
23 Chapter 260A shall comply with that chapter and rules adopted under
24 that chapter.

25 Sec. 248A.157. CLOSING OF CENTER. At least 30 days before
26 the date a center voluntarily discontinues operation, the owner or
27 operator of the center shall inform the parent or legal guardian of

1 each minor client to whom the center is providing services of:

2 (1) the discontinuance; and

3 (2) the proposed time of the discontinuance.

4 SUBCHAPTER E. GENERAL ENFORCEMENT

5 Sec. 248A.201. DENIAL, SUSPENSION, OR REVOCATION OF
6 LICENSE. (a) The department may deny, suspend, or revoke a
7 license issued under this chapter for:

8 (1) a violation of this chapter or a rule or standard
9 adopted under this chapter;

10 (2) an intentional or negligent act by the center or an
11 employee of the center that the department determines significantly
12 affects the health or safety of a minor served by the center;

13 (3) use of drugs or intoxicating liquors to an extent
14 that affects the license holder's or applicant's professional
15 competence;

16 (4) a felony conviction, including a finding or
17 verdict of guilty, an admission of guilt, or a plea of nolo
18 contendere, in this state or in any other state of any person
19 required to undergo a background and criminal history check under
20 this chapter;

21 (5) fraudulent acts, including acts relating to
22 Medicaid fraud and obtaining or attempting to obtain a license by
23 fraud or deception; or

24 (6) a license revocation, suspension, or other
25 disciplinary action taken against the license holder or any person
26 listed in the application in another state.

27 (b) Except as provided by Section 248A.203, the procedures

1 by which the department denies, suspends, or revokes a license and
2 by which those actions are appealed are governed by the procedures
3 for a contested case hearing under Chapter 2001, Government Code.

4 Sec. 248A.202. PROBATION. (a) If the department finds
5 that a center is in repeated noncompliance with this chapter, rules
6 adopted under this chapter, or a corrective action plan, but that
7 the noncompliance does not endanger a minor served by the center or
8 the public health and safety, the department may schedule the
9 center for probation rather than suspending or revoking the
10 center's license.

11 (b) The department shall provide notice to the center of the
12 probation and of the items of noncompliance not later than the 10th
13 day before the date the probation period begins.

14 (c) The department shall designate a period of not less than
15 30 days during which the center will remain under probation. During
16 the probation period, the center must correct the items that were in
17 noncompliance and report the corrections to the department for
18 approval.

19 (d) The department may suspend or revoke the license of a
20 center that does not correct items that were in noncompliance or
21 does not comply with this chapter or the rules adopted under this
22 chapter within the applicable probation period.

23 Sec. 248A.203. 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 a minor
27 served by the center or the public health and safety. An emergency

1 suspension is effective immediately without a hearing on notice to
2 the license holder.

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

8 (c) The hearing and any appeal are governed by the
9 department's rules for a contested case hearing and by Chapter
10 2001, Government Code.

11 Sec. 248A.204. INJUNCTION. (a) The department may
12 petition a district court for a temporary restraining order to
13 restrain a continuing violation of this chapter or a rule or
14 standard adopted under this chapter if the department finds that
15 the violation creates an immediate threat to the health and safety
16 of the minors served by a center.

17 (b) A district court, on petition of the department and on a
18 finding by the court that a person is violating this chapter or the
19 rules adopted under this chapter, may by injunction:

20 (1) prohibit the person from continuing the violation;

21 (2) restrain or prevent the establishment or operation
22 of a center without a license issued under this chapter; or

23 (3) grant any other injunctive relief warranted by the
24 facts.

25 (c) The attorney general may institute and conduct a suit
26 authorized by this section at the request of the department. The
27 attorney general and the department may recover reasonable expenses

1 incurred in obtaining relief under this section, including court
2 costs, reasonable attorney's fees, investigation costs, witness
3 fees, and deposition expenses.

4 (d) Venue for a suit brought under this section is in the
5 county in which the center is located or in Travis County.

6 Sec. 248A.205. CIVIL PENALTY. (a) A person who violates
7 this chapter or a rule or standard adopted under this chapter or who
8 fails to comply with a corrective action plan submitted under this
9 chapter is liable for a civil penalty of not more than \$500 for each
10 violation if the department determines the violation threatens the
11 health and safety of a minor served by the center.

12 (b) Each day a violation continues constitutes a separate
13 violation for the purposes of this section.

14 (c) The attorney general may sue to collect the penalty.
15 The attorney general and the department may recover reasonable
16 expenses incurred in obtaining relief under this section, including
17 court costs, reasonable attorney's fees, investigation costs,
18 witness fees, and deposition expenses.

19 (d) All penalties collected under this section shall be
20 deposited in the state treasury in the general revenue fund.

21 Sec. 248A.206. CRIMINAL PENALTY. (a) A person commits an
22 offense if the person knowingly establishes or operates a center
23 without the appropriate license issued under this chapter.

24 (b) An offense under this section is a Class B misdemeanor.

25 (c) Each day a violation continues constitutes a separate
26 offense.

1 SUBCHAPTER F. ADMINISTRATIVE PENALTY

2 Sec. 248A.251. IMPOSITION OF PENALTY. The commissioner may
3 impose an administrative penalty on a person licensed under this
4 chapter who violates this chapter or a rule or standard adopted or
5 order issued under this chapter.

6 Sec. 248A.252. AMOUNT OF PENALTY. (a) The amount of the
7 penalty may not exceed \$500 for each violation, and each day a
8 violation continues or occurs is a separate violation for purposes
9 of imposing a penalty.

10 (b) The amount shall be based on:

11 (1) the seriousness of the violation, including the
12 nature, circumstances, extent, and gravity of the violation;

13 (2) the threat to health or safety caused by the
14 violation;

15 (3) any previous violations;

16 (4) the amount necessary to deter a future violation;

17 (5) the efforts made by the violator to correct the
18 violation; and

19 (6) any other matter that justice may require.

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

21 (a) If the department initially determines that a violation
22 occurred, the department shall give written notice of the report to
23 the person.

24 (b) The notice must:

25 (1) include a brief summary of the alleged violation;

26 (2) state the amount of the recommended penalty; and

27 (3) inform the person of the person's right to a

1 hearing on the occurrence of the violation, the amount of the
2 penalty, or both.

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

4 (a) Not later than the 20th day after the date the person receives
5 the notice sent under Section 248A.253, the person in writing may:

6 (1) accept the determination and recommended penalty
7 of the department; or

8 (2) make a request for a hearing on the occurrence of
9 the violation, the amount of the penalty, or both.

10 (b) If the person accepts the determination and recommended
11 penalty or if the person fails to respond to the notice, the
12 commissioner by order shall approve the determination and impose
13 the recommended penalty.

14 Sec. 248A.255. HEARING. (a) If the person requests a
15 hearing, the commissioner shall refer the matter to the State
16 Office of Administrative Hearings, which shall promptly set a
17 hearing date and give written notice of the time and place of the
18 hearing to the person. An administrative law judge of the State
19 Office of Administrative Hearings shall conduct the hearing.

20 (b) The administrative law judge shall make findings of fact
21 and conclusions of law and promptly issue to the commissioner a
22 proposal for a decision about the occurrence of the violation and
23 the amount of a proposed penalty.

24 Sec. 248A.256. DECISION BY COMMISSIONER. (a) Based on the
25 findings of fact, conclusions of law, and proposal for a decision,
26 the commissioner by order may:

27 (1) find that a violation occurred and impose a

1 penalty; or

2 (2) find that a violation did not occur.

3 (b) The notice of the commissioner's order under Subsection
4 (a) that is sent to the person in accordance with Chapter 2001,
5 Government Code, must include a statement of the right of the person
6 to judicial review of the order.

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

8 Not later than the 30th day after the date the order of the
9 commissioner imposing an administrative penalty under Section
10 248A.256 becomes final, the person shall:

11 (1) pay the penalty; or

12 (2) file a petition for judicial review of the
13 commissioner's order contesting the occurrence of the violation,
14 the amount of the penalty, or both.

15 Sec. 248A.258. STAY OF ENFORCEMENT OF PENALTY. (a) Within
16 the period prescribed by Section 248A.257, a person who files a
17 petition for judicial review may:

18 (1) stay enforcement of the penalty by:

19 (A) paying the penalty to the court for placement
20 in an escrow account in the court registry; or

21 (B) giving the court a supersedeas bond approved
22 by the court that:

23 (i) is for the amount of the penalty; and

24 (ii) is effective until all judicial review
25 of the commissioner's order is final; or

26 (2) request the court to stay enforcement of the
27 penalty by:

1 (A) filing with the court a sworn affidavit of
2 the person stating that the person is financially unable to pay the
3 penalty and is financially unable to give the supersedeas bond; and

4 (B) sending a copy of the affidavit to the
5 commissioner by certified mail.

6 (b) If the commissioner receives a copy of an affidavit
7 under Subsection (a)(2), the commissioner may file with the court,
8 not later than the fifth day after the date the copy is received, a
9 contest to the affidavit. The court shall hold a hearing on the
10 facts alleged in the affidavit as soon as practicable and shall stay
11 the enforcement of the penalty on finding that the alleged facts are
12 true. The person who files an affidavit has the burden of proving
13 that the person is financially unable to pay the penalty and to give
14 a supersedeas bond.

15 Sec. 248A.259. COLLECTION OF PENALTY. (a) If the person
16 does not pay the penalty and the enforcement of the penalty is not
17 stayed, the penalty may be collected.

18 (b) The attorney general may sue to collect the penalty and
19 may recover reasonable expenses, including attorney's fees,
20 incurred in recovering the penalty.

21 (c) A penalty collected under this subchapter shall be
22 deposited in the state treasury in the general revenue fund.

23 Sec. 248A.260. DECISION BY COURT. (a) If the court
24 sustains the finding that a violation occurred, the court may
25 uphold or reduce the amount of the penalty and order the person to
26 pay the full or reduced amount of the penalty.

27 (b) If the court does not sustain the finding that a

1 violation occurred, the court shall order that a penalty is not
2 owed.

3 Sec. 248A.261. REMITTANCE OF PENALTY AND INTEREST. (a) If
4 the person paid the penalty and if the amount of the penalty is
5 reduced or the penalty is not upheld by the court, the court shall
6 order, when the court's judgment becomes final, that the
7 appropriate amount plus accrued interest be remitted to the person
8 not later than the 30th day after the date the judgment of the court
9 becomes final.

10 (b) The interest accrues at the rate charged on loans to
11 depository institutions by the New York Federal Reserve Bank.

12 (c) The interest shall be paid for the period beginning on
13 the date the penalty is paid and ending on the date the penalty is
14 remitted.

15 Sec. 248A.262. RELEASE OF BOND. (a) If the person gave a
16 supersedeas bond and the penalty is not upheld by the court, the
17 court shall order, when the court's judgment becomes final, the
18 release of the bond.

19 (b) If the person gave a supersedeas bond and the amount of
20 the penalty is reduced, the court shall order the release of the
21 bond after the person pays the reduced amount.

22 Sec. 248A.263. ADMINISTRATIVE PROCEDURE. A proceeding to
23 impose the penalty is considered to be a contested case under
24 Chapter 2001, Government Code.

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

27 Sec. 411.13861. ACCESS TO CRIMINAL HISTORY RECORD

1 INFORMATION: DEPARTMENT OF AGING AND DISABILITY SERVICES.

2 (a) The Department of Aging and Disability Services is entitled to
3 obtain from the Department of Public Safety criminal history record
4 information maintained by the Department of Public Safety that
5 relates to a person required to undergo a background and criminal
6 history check under Chapter 248A, Health and Safety Code.

7 (b) Criminal history record information obtained under
8 Subsection (a) is for the exclusive use of the Department of Aging
9 and Disability Services and is privileged and confidential.

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

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

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

22 (3) "Facility" means:

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

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

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

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

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

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

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

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

15 (I) a person exempt from licensing under Section
16 142.003(a)(19); ~~or~~

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

19 (K) a prescribed pediatric extended care center
20 licensed by the Department of Aging and Disability Services under
21 Chapter 248A.

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

24 (4) "Facility" means:

25 (A) a facility:

26 (i) licensed by the department; or

27 (ii) licensed under Chapter 252;

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

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

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

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

9 (5) "Facility" means:

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

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

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

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

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

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

25 SECTION 7. If before implementing any provision of this Act
26 a state agency determines that a waiver or authorization from a
27 federal agency is necessary for implementation of that provision,

1 the agency affected by the provision shall request the waiver or
2 authorization and may delay implementing that provision until the
3 waiver or authorization is granted.

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

8 (b) Notwithstanding Section 248A.051, Health and Safety
9 Code, as added by this Act, a person is not required to hold a
10 prescribed pediatric extended care center license until January 1,
11 2015.

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

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

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 492 passed the Senate on April 3, 2013, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 24, 2013, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 492 passed the House, with amendments, on May 22, 2013, by the following vote: Yeas 106, Nays 40, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor