

Amend CSSB 204 (senate committee report) as follows:

(1) Strike SECTION 3 of the bill (page 2, lines 41 through 62).

(2) Strike SECTION 21 of the bill (page 9, lines 49 through 53) and substitute the following appropriately numbered SECTIONS to the bill:

SECTION _____. (a) It is the intent of the legislature that Section 242.061, Health and Safety Code, as amended by this section, establish a ceiling or maximum number of violations related to the abuse and neglect of a resident that a facility can commit before the Department of Aging and Disability Services is required to revoke the facility's license. The changes in law made by this section are not intended to limit or diminish the department's permissive authority to revoke a license under Chapter 242, Health and Safety Code.

(b) Section 242.061, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), (c-1), and (e) to read as follows:

(a) In this section:

(1) "Abuse" has the meaning assigned by Section 260A.001.

(2) "Immediate threat to health and safety" means a situation in which immediate corrective action is necessary because the facility's noncompliance with one or more requirements has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.

(3) "Neglect" has the meaning assigned by Section 260A.001.

(a-1) The department, after providing notice and opportunity for a hearing to the applicant or license holder, may deny, suspend, or revoke a license if the department finds that the applicant, the license holder, or any other person described by Section 242.032(d) has:

(1) violated this chapter or a rule, standard, or order adopted or license issued under this chapter in either a repeated or substantial manner;

(2) committed any act described by Sections

242.066(a)(2)-(6); or

(3) failed to comply with Section 242.074.

(a-2) Except as provided by Subsection (a-3) or (e), the department shall revoke a license under Subsection (a-1) if the department finds that:

(1) the license holder has committed three violations described by Subsection (a-1), within a 24-month period, that constitute an immediate threat to health and safety related to the abuse or neglect of a resident; and

(2) each of the violations described by Subdivision (1) are reported in connection with separate surveys, inspections, or investigation visits.

(a-3) The department may not revoke a license under Subsection (a-2) due to a violation described by Subsection (a-2)(1), if:

(1) the violation is not included on the written list of violations left with the facility at the time of the initial exit conference under Section 242.0445(b) for a survey, inspection, or investigation;

(2) the violation is not included on the final statement of violations described by Section 242.0445; or

(3) the violation has been reviewed under the informal dispute resolution process established by Section 531.058, Government Code, and a determination was made that:

(A) the violation should be removed from the license holder's record; or

(B) the violation is reduced in severity so that the violation is no longer cited as an immediate threat to health and safety related to the abuse or neglect of a resident.

(c-1) In the case of revocation of a license under Subsection (a-2), to ensure the health and safety of residents of the institution, the department may:

(1) request the appointment of a trustee to operate the institution under Subchapter D;

(2) obtain a new operator for the institution; or

(3) assist with the relocation of residents to another institution.

(e) The executive commissioner may waive a license revocation required by Subsection (a-2) if the executive commissioner determines that the waiver would not jeopardize the health and safety of the residents of the facility or place the residents at risk of abuse or neglect. The executive commissioner by rule shall establish criteria under which a waiver may be granted as provided by this subsection. The executive commissioner may provide a waiver for a veterans home, as defined by Section 164.002, Natural Resources Code, if the Veterans' Land Board contracts with a different entity to operate the veterans home than the entity that operated the home during the period in which the violations described by Subsection (a-2) occurred.

SECTION _____. Section 242.0615(a), Health and Safety Code, is amended to read as follows:

(a) The department, after providing notice and opportunity for a hearing, may exclude a person from eligibility for a license under this chapter if the person or any person described by Section 242.032(d) has substantially failed to comply with this chapter and the rules adopted under this chapter. The authority granted by this subsection is in addition to the authority to deny issuance of a license under Section 242.061(a-1) [~~242.061(a)~~].

SECTION _____. Section 255.003, Health and Safety Code, is amended by amending Subsections (b), (e), and (j) and adding Subsections (b-1) and (i-1) to read as follows:

(b) Monitoring [~~Priority for monitoring~~] visits shall be given to long-term care facilities:

(1) with a history of patient care deficiencies; or
(2) that are identified as medium risk through the department's early warning system.

(b-1) A long-term care facility may request a monitoring visit under this section.

(e) Quality-of-care monitors shall assess:

(1) the overall quality of life in the long-term care facility; and

(2) specific conditions in the facility directly related to patient care, including conditions identified through the long-term care facility's quality measure reports based on

Minimum Data Set Resident Assessments.

(i-1) The department shall schedule a follow-up visit not later than the 45th day after the date of an initial monitoring visit conducted under this section.

(j) Conditions observed by the quality-of-care monitor that create an immediate threat to the health or safety of a resident shall be reported immediately to the long-term care facility administrator, to the regional office supervisor for appropriate action, and, as appropriate or as required by law, to law enforcement, adult protective services, other divisions of the department, or other responsible agencies.

SECTION _____. Section 255.004, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) In this section:

(1) "Abuse" has the meaning assigned by Section 260A.001.

(2) "Immediate threat to health and safety" means a situation in which immediate corrective action is necessary because the facility's noncompliance with one or more requirements has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.

(3) "Neglect" has the meaning assigned by Section 260A.001.

(a-1) The department shall create rapid response teams composed of health care experts that can visit a long-term care facility that:

(1) is [~~facilities~~] identified as high risk through the department's early warning system; or

(2) if the long-term care facility is a nursing institution, has committed three violations described by Section 242.061(a-1), within a 24-month period, that constitute an immediate threat to health and safety related to the abuse or neglect of a resident.

(a-2) A long-term care facility shall cooperate with a rapid response team deployed under this section to improve the quality of care provided at the facility.

SECTION _____. Section 531.058, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) As part of the informal dispute resolution process established under this section, the commission shall contract with an appropriate disinterested person who is a nonprofit organization to adjudicate disputes between an institution or facility licensed under Chapter 242, Health and Safety Code, and the Department of Aging and Disability Services concerning a statement of violations prepared by the department in connection with a survey conducted by the department of the institution or facility. Section 2009.053 does not apply to the selection of an appropriate disinterested person under this subsection. The person with whom the commission contracts shall adjudicate all disputes described by this subsection.

SECTION _____. (a) As soon as possible after the effective date of this Act, the Department of Aging and Disability Services or the Health and Human Services Commission, as appropriate, shall apply for any waiver or other authorization from a federal agency that is necessary to implement this Act. The department and commission may delay implementing this Act until the waiver or authorization is granted.

(b) As soon as practicable after the effective date of this Act:

(1) the executive commissioner of the Health and Human Services Commission shall adopt the rules necessary to implement Section 531.058(a-1), Government Code, as added by this Act; and

(2) the Department of Aging and Disability Services and the Health and Human Services Commission shall, as appropriate, revise or enter into a memorandum of understanding as required by a federal agency that is necessary to implement Section 531.058(a-1), Government Code, as added by this Act.

SECTION _____. Sections 242.061(a-2) and (a-3), Health and Safety Code, as added by this Act, apply only to a violation committed on or after September 1, 2016. A violation committed before September 1, 2016, is governed by the law in effect on the date the violation was committed, and the former law is continued in effect for that purpose. For purposes of this section, a violation

was committed before September 1, 2016, if any element of the violation occurred before that date.

SECTION _____. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

(b) Sections 242.061(a-2) and (a-3), Health and Safety Code, as added by this Act, take effect September 1, 2016.

(3) Renumber the SECTIONS of the bill appropriately.