

By: Schwertner

S.B. No. 304

A BILL TO BE ENTITLED

AN ACT

relating to the abuse and neglect of residents of certain facilities.

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

SECTION 1. Section 242.061, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3) 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

1 repeated or substantial manner;

2 (2) committed any act described by Sections  
3 [242.066](#)(a)(2)-(6); or

4 (3) failed to comply with Section [242.074](#).

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

8 (1) the license holder has committed three or more  
9 violations described by Subsection (a-1) that constitute an  
10 immediate threat to health and safety related to the abuse or  
11 neglect of a resident; and

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

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

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

22 (2) the violation has been reviewed under the informal  
23 dispute resolution process established by Section [531.058](#),  
24 Government Code, and a determination was made that:

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

27 (B) the violation is reduced in severity so that

1 the violation no longer constitutes an immediate threat to health  
2 and safety related to the abuse or neglect of a resident.

3 SECTION 2. Section 242.0615(a), Health and Safety Code, is  
4 amended to read as follows:

5 (a) The department, after providing notice and opportunity  
6 for a hearing, may exclude a person from eligibility for a license  
7 under this chapter if the person or any person described by Section  
8 242.032(d) has substantially failed to comply with this chapter and  
9 the rules adopted under this chapter. The authority granted by this  
10 subsection is in addition to the authority to deny issuance of a  
11 license under Section 242.061(a-1) [~~242.061(a)~~].

12 SECTION 3. This Act takes effect September 1, 2015.