

By: Raymond

H.B. No. 3533

A BILL TO BE ENTITLED

AN ACT

1
2 relating to inspection procedures in certain long-term care
3 facilities and the creation of a long-term care legislative
4 oversight committee.

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

6 SECTION 1. Section 247.027, Health and Safety Code, is
7 amended by adding Subsections (c), (d), and (e) to read as follows:

8 (c) If a commission employee who conducts an inspection of
9 an assisted living facility is a health care professional licensed
10 in this state, an officer or employee of the facility may require
11 the commission employee to provide proof of licensure before the
12 commission employee conducts the inspection.

13 (d) The commission employee shall include on the
14 commission's inspection checklist:

15 (1) a brief description of the evidence that supports
16 a finding that a violation occurred; and

17 (2) the name and title of the person who found each
18 violation.

19 (e) The executive commissioner shall adopt rules to ensure
20 that among the community services regions the commission uniformly
21 administers inspections and consistently interprets and enforces
22 the rules and laws regulating the assisted living facilities. The
23 executive commissioner shall prepare and deliver a semiannual
24 progress report on uniform administration, interpretation, and

1 enforcement to the commission and the appropriate health and human
2 services legislative standing committees.

3 SECTION 2. Section 247.0271, Health and Safety Code, is
4 amended by adding Subsections (c-1) and (e) to read as follows:

5 (c-1) The inspector may not conduct an additional
6 inspection during an additional exit conference. The inspector may
7 not use an additional exit conference to retaliate against an
8 assisted living facility for:

9 (1) filing a complaint against the commission or the
10 inspector regarding an inspection; or

11 (2) requesting an administrative hearing to contest a
12 finding of a violation of this chapter.

13 (e) The inspector may not require an assisted living
14 facility, through an inspection or the final official statement of
15 violations, to take any action that conflicts with a written order
16 of a physician. A facility shall provide evidence that the
17 statement of violations conflicts with a written order of a
18 physician in the facility's plan of correction. A facility is not
19 required to correct a violation that conflicts with the written
20 orders of a physician.

21 SECTION 3. Section 252.040, Health and Safety Code, is
22 amended by amending Subsection (i) and adding Subsections (j) and
23 (k) to read as follows:

24 (i) The commission [~~department~~] shall have specialized
25 staff conduct inspections, surveys, or investigations of
26 facilities under this section. If a commission employee who
27 conducts an inspection, survey, or investigation of a facility is a

1 health care professional licensed in this state, an officer or
2 employee of the facility may require the commission employee to
3 provide proof of licensure before the commission employee conducts
4 the inspection, survey, or investigation.

5 (j) The commission or the commission's representative shall
6 include on the commission's inspection form:

7 (1) a brief description of the evidence that supports
8 a finding that a violation occurred; and

9 (2) the name and title of the person who found each
10 violation.

11 (k) The executive commissioner shall adopt rules to ensure
12 that among the community services regions the commission uniformly
13 administers inspections, surveys, and investigations and
14 consistently interprets and enforces the rules and laws regulating
15 the facilities licensed under this chapter. The executive
16 commissioner shall prepare and deliver a semiannual progress report
17 on uniform administration, interpretation, and enforcement to the
18 commission and the appropriate health and human services
19 legislative standing committees.

20 SECTION 4. Section 252.044, Health and Safety Code, is
21 amended by adding Subsections (b-1) and (d) to read as follows:

22 (b-1) The commission or the commission's representative may
23 not conduct an additional inspection, survey, or investigation
24 during an additional exit conference. The commission or the
25 commission's representative may not use an additional exit
26 conference to retaliate against a facility for:

27 (1) filing a complaint against the commission or the

1 commission's representative regarding an inspection, survey, or
2 investigation; or

3 (2) requesting an administrative hearing to contest a
4 finding of a violation of this chapter.

5 (d) The commission or the commission's representative may
6 not require a facility, through an inspection, survey, or
7 investigation or the final official statement of violations, to
8 take any action that conflicts with a written order of a physician.
9 A facility shall provide evidence that the statement of violations
10 conflicts with a written order of a physician in the facility's plan
11 to correct violations. A facility is not required to correct a
12 violation that conflicts with the written orders of a physician.

13 SECTION 5. Chapter 161, Human Resources Code, is amended by
14 adding Subchapter J to read as follows:

15 SUBCHAPTER J. LEGISLATIVE OVERSIGHT COMMITTEE

16 Sec. 161.401. DEFINITIONS. In this subchapter:

17 (1) "Committee" means the long-term care legislative
18 oversight committee.

19 (2) "Facility" means:

20 (A) an institution licensed under Chapter 242,
21 Health and Safety Code;

22 (B) an assisted living facility licensed under
23 Chapter 247, Health and Safety Code; and

24 (C) an intermediate care facility licensed under
25 Chapter 252, Health and Safety Code.

26 Sec. 161.402. COMPOSITION OF COMMITTEE; PRESIDING OFFICER.

27 (a) The committee is composed of:

1 (1) two members of the senate and one public member
2 appointed by the lieutenant governor; and

3 (2) two members of the house of representatives and
4 one public member appointed by the speaker of the house of
5 representatives.

6 (b) A member of the committee serves at the pleasure of the
7 appointing official.

8 (c) The lieutenant governor and the speaker of the house of
9 representatives shall appoint the presiding officer of the
10 committee on an alternating basis. The presiding officer shall
11 serve a two-year term expiring February 1 of each odd-numbered
12 year.

13 Sec. 161.403. COMMITTEE POWERS AND DUTIES. (a) The
14 committee shall:

15 (1) meet at the call of the presiding officer;

16 (2) receive, review, and comment on rules proposed by
17 the commission; and

18 (3) review recommendations for legislation proposed
19 by the commission or the attorney general relating to facilities.

20 (b) The committee may hear a facility's complaint regarding
21 an operational dispute and make a recommendation to the commission.

22 (c) The committee may issue process, in accordance with
23 Section 301.024, Government Code, to compel the attendance of
24 witnesses and the production of books, records, documents, and
25 instruments required by the committee.

26 (d) The committee may monitor the effectiveness and
27 efficiency of the facility regulatory system of this state.

1 (e) The committee may propose legislation relating to
2 facilities.

3 (f) The committee may request reports and other information
4 from the commission and the attorney general relating to:

5 (1) the facility regulatory and enforcement system of
6 this state;

7 (2) the standards for including a facility in the STAR
8 + PLUS Medicaid managed care program; and

9 (3) the effectiveness of the STAR + PLUS Medicaid
10 managed care program in reducing preventable acute care costs.

11 (g) The committee shall use the existing staff resources of
12 the senate and the house of representatives to assist the committee
13 in performing its duties under this section.

14 Sec. 161.404. REPORT. (a) The committee shall submit a
15 report to the governor, lieutenant governor, and speaker of the
16 house of representatives not later than November 15 of each
17 even-numbered year.

18 (b) The report must include:

19 (1) identification of significant problems in the
20 facility regulatory and enforcement system, with recommendations
21 for action;

22 (2) the effectiveness and efficiency of the facility
23 regulatory system of this state, with recommendations for action;
24 and

25 (3) recommendations for legislative action, if
26 necessary or appropriate.

27 Sec. 161.405. EXPIRATION. This subchapter expires

1 September 1, 2021.

2 SECTION 6. (a) As soon as practicable after the effective
3 date of this Act, the executive commissioner of the Health and Human
4 Services Commission shall adopt the rules necessary to implement
5 the changes in law made by this Act.

6 (b) Not later than December 1, 2017, the Health and Human
7 Services Commission shall modify inspection forms to conform to the
8 requirements of this Act.

9 (c) The changes in law made by this Act apply only to an
10 inspection, survey, or investigation conducted on or after January
11 1, 2018.

12 (d) As soon as practicable after the effective date of this
13 Act, the lieutenant governor and the speaker of the house of
14 representatives shall appoint members to the long-term care
15 legislative oversight committee as required by Subchapter J,
16 Chapter 161, Human Resources Code, as added by this Act. The
17 speaker of the house of representatives shall appoint the first
18 presiding officer of the committee.

19 SECTION 7. This Act takes effect September 1, 2017.