

By: Kolkhorst

S.B. No. 1562

A BILL TO BE ENTITLED

AN ACT

relating to enforcement for violations of duplicate state and federal regulations by long-term facilities.

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

SECTION 1. Section 242.070, Health and Safety Code, is amended to read as follows:

Sec. 242.070. APPLICATION OF OTHER LAW. (a) The commission [~~department~~] may not assess more than one monetary penalty under this chapter and Chapter 32, Human Resources Code, for a violation arising out of the same act or failure to act, except as provided by Section 242.0665(c). The commission [~~department~~] may assess the greater of a monetary penalty under this chapter or a monetary penalty under Chapter 32, Human Resources Code, for the same act or failure to act.

(b) The commission may not include in a final statement of violations under Section 242.0445 or impose a monetary penalty or other remedy authorized by this chapter for a violation if:

(1) the violation is related to an area of care subject to the same standard under both federal certification and state licensing requirements;

(2) the facility's act or omission constitutes a violation of this chapter or a rule or standard adopted under this chapter and a parallel federal law or regulation related to the operation of the facility;

1 (3) the commission's written list of violations
2 provided under Section 242.0445 identifies the act or omission that
3 violates the parallel federal law or regulation; and

4 (4) the violation, as determined by the department
5 consistent with Section 242.0665, does not:

6 (A) result in serious harm to or death of a
7 resident; or

8 (B) constitute a serious threat to the health or
9 safety of a resident.

10 SECTION 2. As soon as practicable after the effective date
11 of this Act, the executive commissioner of the Health and Human
12 Services Commission shall adopt rules necessary to implement
13 Section 242.070(b), Health and Safety Code, as added by this Act.

14 SECTION 3. This Act takes effect September 1, 2017.