

By: Raymond

H.B. No. 117

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

(1) a brief description of the evidence supporting a finding that a violation occurred; and

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

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

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

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

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

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

(2) requesting an administrative hearing to contest a finding that a violation occurred.

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

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

(i) The ~~commission~~ [department] shall have specialized staff conduct inspections, surveys, or investigations of facilities under this section. If a commission employee who 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 supporting a
8 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 facilities licensed under this chapter. The executive commissioner
16 shall prepare and deliver a semiannual progress report on uniform
17 administration, interpretation, and enforcement to the commission
18 and the appropriate health and human services legislative standing
19 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

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

(2) requesting an administrative hearing to contest a finding that a violation occurred.

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

SECTION 5. Chapter 531, Government Code, is amended by adding Subchapter E-1 to read as follows:

SUBCHAPTER E-1. LONG-TERM CARE LEGISLATIVE OVERSIGHT COMMITTEE

Sec. 531.181. DEFINITIONS. In this subchapter:

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

(2) "Facility" means:

(A) a nursing facility licensed under Chapter 242, Health and Safety Code;

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

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

Sec. 531.182. COMPOSITION OF COMMITTEE; PRESIDING OFFICER.

1 (a) The committee is composed of:

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

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

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

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

14 Sec. 531.183. COMMITTEE POWERS AND DUTIES. (a) The
15 committee shall:

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

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

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

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

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

27 (d) The committee may monitor the effectiveness and

efficiency of the facility regulatory system of this state.

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

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

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

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

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

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

Sec. 531.184. REPORT. (a) The committee shall submit a report to the governor, lieutenant governor, and speaker of the house of representatives not later than November 15 of each even-numbered year.

(b) The report must include:

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

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

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

1 Sec. 531.185. EXPIRATION. This subchapter expires
2 September 1, 2023.

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

7 (b) Not later than December 1, 2019, the Health and Human
8 Services Commission shall modify inspection forms to conform to the
9 requirements of this Act.

10 (c) The changes in law made by this Act apply only to an
11 inspection, survey, or investigation conducted on or after January
12 1, 2020.

13 (d) As soon as practicable after the effective date of this
14 Act, the lieutenant governor and the speaker of the house of
15 representatives shall appoint members to the long-term care
16 legislative oversight committee as required by Subchapter E-1,
17 Chapter 531, Government Code, as added by this Act. The speaker of
18 the house of representatives shall appoint the first presiding
19 officer of the committee.

20 SECTION 7. This Act takes effect September 1, 2019.