

AN ACT

relating to establishing a council on long-term care facilities and to a dispute resolution process regarding those facilities.

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

SECTION 1. Section 531.058(a-1), Government Code, as amended by Chapters 590 (S.B. 924) and 836 (H.B. 2025), Acts of the 85th Legislature, Regular Session, 2017, is reenacted and amended 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 to adjudicate disputes between an institution or facility licensed under Chapter 242, Health and Safety Code, or a facility licensed under Chapter 247, Health and Safety Code, and the commission concerning a statement of violations prepared by the commission in connection with a survey conducted by the commission 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. The informal dispute resolution process for the statement of violations must require:

(1) the surveyor who conducted the survey for which the statement was prepared to be available to clarify or answer questions related to the facility or the statement that are asked by

1 the person reviewing the dispute or by the facility; and

2 (2) the commission's review of the institution's or  
3 facility's informal dispute resolution request to be conducted by a  
4 registered nurse with long-term care experience for a standard of  
5 care violation.

6 SECTION 2. Subchapter B, Chapter 531, Government Code, is  
7 amended by adding Section 531.0581 to read as follows:

8 Sec. 531.0581. LONG-TERM CARE FACILITIES COUNCIL. (a) In  
9 this section:

10 (1) "Council" means the Long-Term Care Facilities  
11 Council.

12 (2) "Long-term care facility" means a facility subject  
13 to regulation under Section 32.021(d), Human Resources Code, or  
14 Chapter 242, 247, or 252, Health and Safety Code.

15 (b) The executive commissioner shall establish a Long-Term  
16 Care Facilities Council as a permanent advisory committee to the  
17 commission. The council is composed of the following members  
18 appointed by the executive commissioner:

19 (1) at least one member who is a for-profit nursing  
20 facility provider;

21 (2) at least one member who is a nonprofit nursing  
22 facility provider;

23 (3) at least one member who is an assisted living  
24 services provider;

25 (4) at least one member responsible for survey  
26 enforcement within the state survey and certification agency;

27 (5) at least one member responsible for survey

1 inspection within the state survey and certification agency;

2 (6) at least one member of the state agency  
3 responsible for informal dispute resolution;

4 (7) at least one member with expertise in Medicaid  
5 quality-based payment systems for long-term care facilities;

6 (8) at least one member who is a practicing medical  
7 director of a long-term care facility; and

8 (9) at least one member who is a physician with  
9 expertise in infectious disease or public health.

10 (c) The executive commissioner shall designate a member of  
11 the council to serve as presiding officer. The members of the  
12 council shall elect any other necessary officers.

13 (d) A member of the council serves at the will of the  
14 executive commissioner.

15 (e) The council shall meet at the call of the executive  
16 commissioner.

17 (f) A member of the council is not entitled to reimbursement  
18 of expenses or to compensation for service on the council.

19 (g) The council shall study and make recommendations  
20 regarding a consistent survey and informal dispute resolution  
21 process for long-term care facilities, Medicaid quality-based  
22 payment systems for those facilities, and the allocation of  
23 Medicaid beds in those facilities. The council shall:

24 (1) study and make recommendations regarding best  
25 practices and protocols to make survey, inspection, and informal  
26 dispute resolution processes more efficient and less burdensome on  
27 long-term care facilities;

1 (2) recommend uniform standards for those processes;

2 (3) study and make recommendations regarding Medicaid  
3 quality-based payment systems and a rate-setting methodology for  
4 long-term care facilities; and

5 (4) study and make recommendations relating to the  
6 allocation of and need for Medicaid beds in long-term care  
7 facilities, including studying and making recommendations relating  
8 to:

9 (A) the effectiveness of rules adopted by the  
10 executive commissioner relating to the procedures for certifying  
11 and decertifying Medicaid beds in long-term care facilities; and

12 (B) the need for modifications to those rules to  
13 better control the procedures for certifying and decertifying  
14 Medicaid beds in long-term care facilities.

15 (h) Not later than January 1 of each odd-numbered year, the  
16 council shall submit a report on the council's findings and  
17 recommendations to the executive commissioner, the governor, the  
18 lieutenant governor, the speaker of the house of representatives,  
19 and the chairs of the appropriate legislative committees.

20 (i) Chapter 2110 does not apply to the council.

21 SECTION 3. Section 242.0445, Health and Safety Code, is  
22 amended by adding Subsection (a-1) to read as follows:

23 (a-1) If the commission or the commission's representative  
24 conducting an inspection, survey, or investigation under Section  
25 242.043 or 242.044 identifies a violation that constitutes  
26 immediate jeopardy to the health or safety of a resident:

27 (1) the commission shall immediately notify the

1 facility's management of the violation; and

2 (2) a commission representative shall remain in or be  
3 accessible to the facility until the commission receives the  
4 facility's plan of removal related to the violation.

5 SECTION 4. (a) In this section:

6 (1) "Commission" means the Health and Human Services  
7 Commission.

8 (2) "Long-Term Care Facilities Council" means the  
9 council established under Section 531.0581, Government Code, as  
10 added by this Act.

11 (3) "Long-term care facility" has the meaning assigned  
12 by Section 531.0581, Government Code, as added by this Act.

13 (b) Not later than September 1, 2021, the Long-Term Care  
14 Facilities Council shall assess the impact the implementation of  
15 Section 2, Chapter 1117 (H.B. 3523), Acts of the 84th Legislature,  
16 Regular Session, 2015, which amended Section 533.00251(c),  
17 Government Code, effective September 1, 2021, would have on  
18 long-term care facilities and make a recommendation to the  
19 commission regarding its implementation. Notwithstanding that  
20 section, if the council advises that implementing that section  
21 would have a significant impact on long-term care facilities, the  
22 commission may delay the implementation of that section until  
23 September 1, 2023, provided that the commission publishes notice of  
24 that delay in the Texas Register as soon as practicable.

25 (c) This section expires September 1, 2023.

26 SECTION 5. Not later than December 1, 2019, the executive  
27 commissioner of the Health and Human Services Commission shall

1 establish the Long-Term Care Facilities Council and appoint the  
2 council members as required by Section 531.0581, Government Code,  
3 as added by this Act.

4         SECTION 6. The Health and Human Services Commission is  
5 required to implement a provision of this Act only if the  
6 legislature appropriates money to the commission specifically for  
7 that purpose. If the legislature does not appropriate money  
8 specifically for that purpose, the commission may, but is not  
9 required to, implement a provision of this Act using other  
10 appropriations that are available for that purpose.

11         SECTION 7. If before implementing any provision of this Act  
12 a state agency determines that a waiver or authorization from a  
13 federal agency is necessary for implementation of that provision,  
14 the agency affected by the provision shall request the waiver or  
15 authorization and may delay implementing that provision until the  
16 waiver or authorization is granted.

17         SECTION 8. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2019.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1519 passed the Senate on May 3, 2019, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 25, 2019, by the following vote: Yeas 30, Nays 0.

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Secretary of the Senate

I hereby certify that S.B. No. 1519 passed the House, with amendments, on May 22, 2019, by the following vote: Yeas 107, Nays 36, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor