87R569 EAS-F

By:  Raymond H.B. No. 933

A BILL TO BE ENTITLED

AN ACT

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

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)  An officer or employee of an assisted living facility may require a commission inspector who is a licensed health care professional to provide proof of licensure before the inspector conducts an inspection of the facility.

(d)  A commission inspector shall include on the commission's inspection checklist:

(1)  a brief description of the evidence supporting each cited violation; and

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

(e)  The executive commissioner shall:

(1)  adopt rules to ensure that among the commission's community services regions the commission uniformly administers inspections and consistently interprets and enforces the laws and rules regulating assisted living facilities; and

(2)  prepare and deliver a semiannual progress report on uniform administration, interpretation, and enforcement to 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:

(1)  conduct an additional inspection during an additional exit conference; or

(2)  use an additional exit conference to retaliate against an assisted living facility for:

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

(B)  requesting an administrative hearing to contest a cited violation.

(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. An officer or employee of a facility may require a commission representative who is a licensed health care professional to provide proof of licensure before the representative conducts an inspection, survey, or investigation of the facility.

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

(1)  a brief description of the evidence supporting each cited violation; and

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

(k)  The executive commissioner shall:

(1)  adopt rules to ensure that among the commission's community services regions the commission uniformly administers inspections, surveys, and investigations and consistently interprets and enforces the laws and rules regulating facilities licensed under this chapter; and

(2)  prepare and deliver a semiannual progress report on uniform administration, interpretation, and enforcement to the appropriate health and human services legislative standing committees.

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

(b-1)  The commission or the commission's representative may not:

(1)  conduct an additional inspection, survey, or investigation during an additional exit conference; or

(2)  use an additional exit conference to retaliate against a facility for:

(A)  filing a complaint against the commission or the commission's representative regarding an inspection, survey, or investigation; or

(B)  requesting an administrative hearing to contest a cited violation.

(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. (a) The committee is composed of:

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

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

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

(c)  The lieutenant governor and the speaker of the house of representatives shall alternate appointing the presiding officer of the committee. The presiding officer shall serve a two-year term expiring February 1 of each odd-numbered year.

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

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

(2)  receive, review, and comment on rules proposed by the executive commissioner; and

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

(b)  Notwithstanding Chapter 551 or any other law, the committee may meet by telephone conference call, videoconference, or other similar telecommunication method. A meeting held by telephone conference call, videoconference, or other similar telecommunication method is subject to the requirements of Sections 551.125(c), (d), (e), and (f).

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

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

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

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

(g)  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.

(h)  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:

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

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

(3)  include recommendations for any necessary or appropriate legislative action.

Sec. 531.185.  EXPIRATION. This subchapter expires September 1, 2025.

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

(b)  Not later than December 1, 2021, the Health and Human Services Commission shall modify inspection forms to conform to the requirements of this Act.

(c)  The changes in law made by this Act apply only to an inspection, survey, or investigation conducted on or after January 1, 2022.

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

SECTION 7.  This Act takes effect September 1, 2021.