

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

1 committees.

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

4 (c-1) The inspector may not:

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

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

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

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

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 in the facility's plan of correction
17 shall provide evidence that the statement of violations conflicts
18 with the physician's written order. A facility is not required to
19 correct a violation that conflicts with the physician's written
20 order.

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. An officer or employee of a facility
27 may require a commission representative who is a licensed health

1 care professional to provide proof of licensure before the
2 representative conducts an inspection, survey, or investigation of
3 the facility.

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

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

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

10 (k) The executive commissioner shall:

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

16 (2) prepare and deliver a semiannual progress report
17 on uniform administration, interpretation, and enforcement to the
18 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:

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

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

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

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

6 (d) The commission or the commission's representative may
7 not require a facility, through an inspection, survey, or
8 investigation or the final official statement of violations, to
9 take any action that conflicts with a written order of a physician.

10 A facility in the facility's plan to correct violations shall
11 provide evidence that the statement of violations conflicts with
12 the physician's written order. A facility is not required to
13 correct a violation that conflicts with the physician's written
14 order.

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

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

18 Sec. 531.181. DEFINITIONS. In this subchapter:

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

21 (2) "Facility" means:

22 (A) a nursing facility licensed under Chapter
23 242, Health and Safety Code;

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

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

1 Sec. 531.182. COMPOSITION OF COMMITTEE; PRESIDING OFFICER.

2 (a) The committee is composed of:

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

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

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

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

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

21 (b) Notwithstanding Chapter 551 or any other law, the
22 committee may meet by telephone conference call, videoconference,
23 or other similar telecommunication method. A meeting held by
24 telephone conference call, videoconference, or other similar
25 telecommunication method is subject to the requirements of Sections
26 551.125(c), (d), (e), and (f).

27 (c) The committee may hear a facility's complaint regarding

1 an operational dispute and make a recommendation to the commission.

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

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

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

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

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

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

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

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

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

25 (b) The report must:

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

1 action;

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

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

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

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

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

16 (c) The changes in law made by this Act apply only to an
17 inspection, survey, or investigation conducted on or after January
18 1, 2022.

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

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