

By: Klick

H.B. No. 3240

Substitute the following for H.B. No. 3240:

By: Frank

C.S.H.B. No. 3240

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the composition of the Long-Term Care Facilities
3 Council and rules related to and the imposition of administrative
4 penalties against certain long-term care facilities.

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

6 SECTION 1. Section 531.0581(b), Government Code, is amended
7 to read as follows:

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

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

14 (2) at least one member who is a nonprofit nursing
15 facility provider;

16 (3) at least one member who is an assisted living
17 services provider;

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

20 (5) at least one member responsible for survey
21 inspection within the state survey and certification agency;

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

24 (7) at least one member with expertise in Medicaid

1 quality-based payment systems for long-term care facilities;

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

4 (9) at least one member who is a physician with
5 expertise in infectious disease or public health; and

6 (10) at least one member who is a community-based
7 provider at an intermediate care facility for individuals with
8 intellectual or developmental disabilities licensed under Chapter
9 252, Health and Safety Code.

10 SECTION 2. Section 252.065(b), Health and Safety Code, is
11 amended to read as follows:

12 (b) The penalty for a facility with fewer than 60 beds shall
13 be not less than \$100 or more than \$1,000 for each violation. The
14 penalty for a facility with 60 beds or more shall be not less than
15 \$100 or more than \$5,000 for each violation. Each day a violation
16 occurs or continues is a separate violation for purposes of
17 imposing a penalty. The total amount of penalties ~~[a penalty]~~
18 assessed under this subsection for an on-site regulatory visit or
19 complaint investigation, regardless of the duration of any ongoing
20 violations, [for each day a violation occurs or continues] may not
21 exceed:

22 (1) \$5,000 for a facility with fewer than 60 beds; and

23 (2) \$25,000 for a facility with 60 beds or more.

24 SECTION 3. Section 161.089(c), Human Resources Code, is
25 amended to read as follows:

26 (c) After consulting with appropriate stakeholders, the
27 executive commissioner shall develop and adopt rules regarding the

1 imposition of administrative penalties under this section. The
2 rules must:

3 (1) specify the types of violations that warrant
4 imposition of an administrative penalty;

5 (2) establish a schedule of progressive
6 administrative penalties in accordance with the relative type,
7 frequency, and seriousness of a violation;

8 (3) prescribe reasonable amounts to be imposed for
9 each violation giving rise to an administrative penalty, subject to
10 Subdivision (4);

11 (4) authorize the imposition of an administrative
12 penalty in an amount not to exceed \$5,000 for violations discovered
13 during each on-site regulatory visit or complaint investigation
14 [violation];

15 (5) provide that a provider commits a separate
16 violation each day the provider continues to violate the law or
17 rule;

18 (6) ensure standard and consistent application of
19 administrative penalties throughout the state; ~~and~~

20 (7) provide for an administrative appeals process to
21 adjudicate claims and appeals relating to the imposition of an
22 administrative penalty under this section that is in accordance
23 with Chapter 2001, Government Code;

24 (8) ensure standard and consistent interpretation of
25 service delivery rules and consistent application of
26 administrative penalties throughout this state; and

27 (9) include interpretative guidelines for regulatory

1 staff and providers regarding the imposition of administrative
2 penalties under this section.

3 SECTION 4. Not later than December 1, 2021, the executive
4 commissioner of the Health and Human Services Commission shall
5 adopt the rules necessary to implement the changes in law made by
6 this Act.

7 SECTION 5. The Health and Human Services Commission may not
8 assess a penalty under Section 161.089, Human Resources Code, as
9 amended by this Act, until the executive commissioner of the Health
10 and Human Services Commission adopts the rules necessary to
11 implement Sections 161.089(c)(8) and (9), Human Resources Code, as
12 added by this Act.

13 SECTION 6. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2021.