

BILL ANALYSIS

Senate Research Center
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S.B. 2474
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Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 87th Legislature, S.B. 2013 was passed and required HHSC to conduct a study to evaluate the impact of the repeal of Title 25, Chapter 442 of the Texas Administrative Code (TAC) and the transfer of regulatory oversight of substance use disorder providers to Chapter 448 of the TAC. The key provisions of the bill included:

- Requiring HHSC to conduct a study on the impact of the rule changes related to the regulatory oversight of substance use disorder providers.
- Evaluating the economic impact of the new enforcement structure and whether there are inequities in treating substance use disorder providers the same as chemical dependency treatment facilities.
- Determining whether compliance could be enforced through a schedule specifically designed for providers of substance use disorder treatments without punitive impacts.
- Addressing concerns about the elimination of a published schedule of administrative penalties for violations of applicable regulations and the elimination of a cooperative process between the provider and the state.

HHSC conducted an email survey of providers and produced a summary of the responses received to that survey. However, they did not study the responses in relation to the relevant economic conditions outlined in SB 2013 and they did not conduct any further research or stakeholder input beyond their initial email questionnaire.

As a result of that incomplete effort, S.B. 2474 seeks to amend sections of the Health and Safety Code to modify civil and administrative penalties for chemical dependency treatment facilities.

S.B. 2474:

- Establishes a civil penalty of up to \$25,000 per day of violation and per act of violation, with consideration given to factors such as previous violations, seriousness of the violation, and the person or facility's ability to pay the penalty.
- Requires the Health and Human Services Commission to post current administrative penalty schedules on its website, based on consideration of the economic impact of the penalty assessed against the licensed or regulated person or facility.
- Changes made by this bill apply only to violations occurring on or after the effective date of September 1, 2023.

S.B. 2474 was deemed necessary as a result of a study performed under S.B. 2013, 87th Legislature, Regular Session, 2021, which examined the impact of the elimination of a published schedule of administrative penalties for substance use disorder providers.

As proposed, S.B. 2474 amends current law relating to civil and administrative penalties assessed for violations of statutes or rules governing chemical dependency treatment facilities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 464.017(a), Health and Safety Code, as follows:

(a) Requires the court, in determining the amount of the civil penalty, to consider the person's or facility's ability to pay the penalty, and if the person's or facility's license is not revoked under Section 464.014 (Denial, Revocation, Suspension, or Nonrenewal of License) because of the violation, the ability of the person or facility to continue providing services under Chapter 464 (Facilities Treating Persons With a Chemical Dependency) after paying the penalty. Makes nonsubstantive changes.

SECTION 2. Amends Sections 464.019(c) and (s), Health and Safety Code, as follows:

(c) Requires that the amount of the penalty be based on the person's ability to pay the penalty; if the person's license is not revoked under Section 464.014 because of the violation, the person's ability to continue providing services under this chapter after paying the penalty; and the degree of the person's culpability in causing the violation. Makes nonsubstantive changes.

(s) Requires that the administrative penalty schedules be based on a consideration of the economic impact of a penalty assessed against a person licensed or regulated under this chapter and the factors described by Subsection (c).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2023.