

BILL ANALYSIS

C.S.H.B. 5396
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The author of the bill has informed the committee of the circumstances and alarming details surrounding the December 2023 death of former State Representative, State Senator, and U.S. Congresswoman Eddie Bernice Johnson in an inpatient rehabilitation hospital in Dallas, after post-operative neglect while in the rehabilitation hospital. According to the *Texas Tribune*, the family's attorney indicated that the congresswoman's orthopedic surgeon, who had performed her surgery, had noted the presence of complications that were directly related to her being neglected in the facility. The bill author has further informed the committee that Congresswoman Johnson's death under these circumstances has exposed a gap in how Texas' inpatient rehabilitation hospitals are regulated, that these hospitals operate in a hybrid fashion, with some operations similar to operations in long-term care facilities and some similar to a traditional hospital's operations, and that enhanced oversight of these inpatient rehabilitation hospitals must reflect the nature of care provided by these facilities. C.S.H.B. 5396 seeks to expand the authority of the office of the state long-term care ombudsman to receive, investigate, and resolve complaints regarding the health or safety of patients being treated in inpatient rehabilitation hospitals by enacting the Congresswoman Eddie Bernice Johnson Rehabilitation Hospital Care Ombudsman Act of 2025.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 7 of this bill.

ANALYSIS

C.S.H.B. 5396 amends the Human Resources Code to authorize the office of the state long-term care ombudsman to receive, investigate, and resolve complaints regarding the health or safety of rehabilitation hospital patients who may be in imminent peril as a result of care provided or withheld by rehabilitation hospital staff. The bill authorizes the office to use appropriate administrative, legal, and other remedies to assist rehabilitation hospital patients as provided by commission rules. For these purposes, the bill defines the following terms:

- "rehabilitation hospital" as a general hospital or a special hospital that specializes in providing comprehensive medical rehabilitation services, including surgery and related ancillary services; and
- "imminent peril" as the condition of being in immediate danger of bodily injury, physical or mental impairment, or death.

Accordingly, the bill makes statutory provisions governing the office of the state long-term ombudsman applicable to rehabilitation hospitals, rehabilitation hospital patients, and the

patients' legal representatives, as applicable, in the same manner for long-term care facilities, long-term care residents, and the residents' legal representatives, as applicable.

C.S.H.B. 5396 authorizes a person to file by telephone or electronic mail a complaint with the office regarding the health or safety of a rehabilitation hospital patient who may be in imminent peril as a result of care provided or withheld by a rehabilitation hospital's staff.

C.S.H.B. 5396 requires a rehabilitation hospital to post in a prominent and conspicuous location at the hospital and in each patient room at the hospital a sign containing information on the procedure for contacting and filing a complaint with the office. The bill requires the sign to meet the following criteria:

- be printed in at least 14-point, sans serif typeface on paper at least 8-1/2 by 11 inches in size;
- contain the contact information for filing a complaint against a rehabilitation hospital, including the telephone number and electronic mail address for the appropriate person to receive the complaint; and
- contain a statement specified in the bill's provisions.

The bill requires the executive commissioner of the Health and Human Services Commission (HHSC) by rule, as soon as practicable after the bill's effective date, to prescribe the form and content of such a sign and post on the HHSC website a model sign that complies with the bill's provisions and HHSC rules.

C.S.H.B. 5396 requires the executive commissioner of HHSC to adopt the rules necessary to implement the bill's provision as soon as practicable after the bill's effective date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 5396 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the bill's short title from the Eddie Bernice Johnson Inpatient Rehabilitation Facility Regulatory Act of 2025, as in the introduced, to the Congresswoman Eddie Bernice Johnson Rehabilitation Hospital Care Ombudsman Act of 2025.

The substitute omits all the provisions from the introduced that established a statutory framework for the licensing and regulation of inpatient rehabilitation facilities, imposed certain fees, provided civil and administrative penalties, created criminal offenses, and granted the executive commissioner of HHSC rulemaking authority with regard to that framework. The introduced, but not the substitute, did the following:

- set out provisions classifying a licensed inpatient rehabilitation facility as a "health care provider" for purposes of the Advance Directives Act and a "facility" for purposes of statutory provisions governing reports of abuse, neglect, and exploitation of residents of certain facilities and excluding a licensed inpatient rehabilitation facility from the definition of "special hospital" for purposes of the Texas Hospital Licensing Law;
- set out definitions for the bill's provisions regarding the licensing and regulation of inpatient rehabilitation facilities;
- provided for the circumstances under which a person is a controlling person of an inpatient rehabilitation facility and what such a person includes;
- established provisions relating to the admissibility of certain evidence in civil actions;
- set out certain requirements relating to licensing, fees, and inspections for the purpose of establishing, conducting, or maintaining an inpatient rehabilitation facility in Texas;

- set out certain requirements for the issuance and renewal of a license for that purpose;
- provided for the maintenance of a current list of license holders for inpatient rehabilitation facilities and the issuance of an expedited license;
- established provisions relating to a temporary license for a change of ownership;
- set out provisions relating to certain license fees, the grading of facilities, rules and minimum standards to implement the introduced version's provisions, and rules for patient transfers;
- set out requirements and provisions relating to registration with the Texas Information and Referral Network and the posting of certain documents;
- set out requirements and provisions relating to fire safety, inspections, unannounced inspections, follow-up inspections, the reporting of certain violations, open hearings, and the disclosure of unannounced inspections, including a criminal offense;
- provided for the denial, suspension, or revocation of an inpatient rehabilitation facility license;
- provided for the emergency suspension of an inpatient rehabilitation facility's license or the immediate closing of part of the facility under certain conditions;
- set out provisions relating to HHSC petitioning a district court to take certain actions by injunction;
- provided for a criminal offense for violating the license requirements for establishing, conducting, or maintaining an inpatient rehabilitation facility;
- established provisions relating to a civil penalty for a person who violates the introduced version's provisions;
- provided for an administrative penalty against certain persons;
- set out certain requirements relating to a violation of law relating to advance directives;
- provided for the right of an inpatient rehabilitation facility to correct a violation;
- established provisions relating to the issuance of a report recommending an administrative penalty, the procedures for hearings on such penalties, and the notice and payment of such penalties;
- provided for the application of other law on a monetary penalty and other remedies for certain civil violations under the introduced version's provisions;
- provided for the amelioration of a violation of the introduced version's provisions; and
- set out the applicable procedural provisions relating to the introduced version's provisions.

The substitute instead sets out provisions relating to the authorization for the office of the state long-term care ombudsman to receive, investigate, and resolve complaints regarding the health or safety of rehabilitation hospital patients who may be in imminent peril as a result of care provided or withheld by rehabilitation hospital staff, whereas the introduced did not. Accordingly, the substitute includes provisions that were not in the introduced relating to the following:

- the definitions of "imminent peril" and "rehabilitation hospital";
- the applicability of statutory provisions governing the office with respect to long-term care facilities, long-term care residents, and the residents' legal representatives to rehabilitation hospitals, rehabilitation hospital patients, and the patients' legal representatives, as applicable;
- the requirement for a rehabilitation hospital to post in a prominent and conspicuous location at the hospital and in each patient room at the hospital a sign relating to contacting and filing a complaint with the office;
- the authorization for a person to file by telephone or electronic mail a complaint with the office; and
- the requirement for the executive commissioner of HHSC, as soon as practicable after the bill's effective date, to publish on HHSC's website the model sign required by the substitute's provisions and to adopt rules necessary to implement the substitute's provisions.

The substitute changes the bill's effective date to provide for its possible immediate effect, contingent on receiving the requisite constitutional vote, whereas the introduced provided only for the bill to take effect September 1, 2025, with no possibility for immediate effect.