

BILL ANALYSIS

S.B. 2269
By: Perry
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that state law has long provided for an informal dispute resolution process to help resolve disagreements between nursing facilities and the Health and Human Services Commission (HHSC) in which HHSC must contract with a disinterested nonprofit organization to adjudicate disputes concerning statements of violations issued after facility surveys. The bill sponsor has also informed the committee that nursing facilities that violate licensure standards may face administrative penalties, while the Centers for Medicare and Medicaid Services (CMS) may also impose civil penalties, and that Section 242.070 of the Health and Safety Code, or the "double-dipping statute," was enacted to prevent HHSC from imposing penalties when CMS has already done so for the same or similar conduct. S.B. 2269 seeks to address these issues by clarifying that the decision of the disinterested nonprofit adjudicator is binding on HHSC, prohibiting HHSC from imposing an administrative penalty for certain conduct for which CMS imposes a penalty, and prohibiting HHSC from retaliating against a nursing facility that takes certain actions against HHSC in good faith.

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

ANALYSIS

S.B. 2269 amends the Government Code to establish that a decision under the informal dispute resolution process for certain long-term care facilities by the contracting person adjudicating a dispute between the Health and Human Services Commission (HHSC) and a facility licensed under statutory provisions relating to assisted living facilities and to convalescent and nursing facilities and related institutions is binding on HHSC and cannot be overturned by HHSC.

S.B. 2269 amends the Health and Safety Code to prohibit HHSC from imposing an administrative penalty against a nursing facility under statutory provisions relating to Medicaid or to convalescent and nursing facilities and related institutions for a violation arising out of the same act or failure to act that is the subject of the following:

- a penalty imposed against the facility by the Centers for Medicare and Medicaid Services (CMS) under federal regulations; or
- a penalty the facility appeals under applicable federal regulations before the facility exhausts all rights of appeal if the following conditions apply:

- the federal requirement is the same or substantially similar to a requirement under applicable state law; and
- the CMS penalty does not apply.

The bill prohibits HHSC from retaliating against a nursing facility in response to the facility in good faith appealing an HHSC decision or filing another action to counter an HHSC action against the facility. The bill defines "retaliate" as an adverse action by HHSC in response to a good faith action by a nursing facility responding to an HHSC decision negatively affecting the facility.

S.B. 2269 applies only to a violation that occurs on or after the bill's effective date. A violation that occurs before the bill's effective date is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2025.