

BILL ANALYSIS

Senate Research Center

S.B. 2269
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Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The statutory requirements related to nursing facility dispute resolution and enforcement actions have long provided for an informal dispute resolution (IDR) process to provide an informal mechanism to resolve disputes between nursing facilities and the Health and Human Services Commission (HHSC). S.B. 304 (84R) amended Section 531.058, Government Code, to require HHSC, as part of the informal dispute resolution process for certain long-term care facilities, to contract with an appropriate disinterested person who is a nonprofit organization to adjudicate disputes between a licensed convalescent or nursing facility or related institution and HHSC (formerly the Department of Aging and Disability Services) concerning a statement of violations prepared by HHSC in connection with a survey conducted by HHSC of the institution or facility.

A nursing facility that violates licensure standards may also be subject to administrative penalties. The Centers for Medicare and Medicaid Services (CMS) may also impose civil money penalties. Section 242.070 of the Health & Safety Code (the "double-dipping statute") was intended to prevent HHSC from imposing an administrative penalty where the Centers for Medicare & Medicaid Services (CMS) has already fined or is required to fine a nursing home for the same or similar act or failure to act. In other words, Section 242.070 was intended to ensure that a nursing facility did not have administrative penalties under the licensure statute and Medicaid or Medicare penalties by CMS.

S.B. 2269 clarifies that the decision of the disinterested person who is a nonprofit is binding on HHSC, meaning the resolution reached through the IDR process cannot be contested by HHSC and enhancing clarity and efficiency in the IDR process.

S.B. 2269 amends Section 242.070, Health and Safety Code, to make clear that if CMS imposes a remedy for the same or substantially same conduct that violates state statutes, HHSC may not impose an administrative penalty for that same conduct.

S.B. 2269 adds new Section 242.075, Health and Safety Code, explicitly prohibiting HHSC from retaliating against a nursing facility that in good faith appeal a HHSC decision or filing another action to counter a commission action against a facility.

As proposed, S.B. 2269 amends current law relating to dispute resolution for and enforcement actions against certain long-term care 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 526.0202, Government Code, as effective April 1, 2025, by adding Subsection (b-1) to provide that a decision under the informal dispute resolution process by the contracting person adjudicating a dispute between the Health and Human Services Commission (HHSC) and a facility described by Subsection (b) (relating to requiring HHSC to contract with an appropriate disinterested person to adjudicate certain disputes) is binding and prohibited from being overturned by HHSC.

SECTION 2. Amends Section 242.002, Health and Safety Code, by adding Subdivision (13) to define "retaliate."

SECTION 3. Amends Section 242.070, Health and Safety Code, as follows:

Sec. 242.070. APPLICATION OF OTHER LAW. (a) Creates this subsection from existing text. Prohibits HHSC, rather than the Department of Aging and Disability Services (DADS), from assessing more than one monetary penalty under Chapter 242 (Convalescent and Nursing Facilities and Related Institutions), Health and Safety Code, and Chapter 32 (Medical Assistance Programs), Human Resources Code, for a violation arising out of the same act or failure to act, except as provided by Section 242.0665(c) (relating to authorizing HHSC, if a certain institution fails to maintain a certain correction, to assess an administrative penalty). Makes a conforming change.

(b) Prohibits HHSC from imposing an administrative penalty under this chapter and Chapter 32, Human Resources Code, against a nursing facility for a violation arising out of the same act or failure to act that is the subject of:

(1) a penalty imposed by the Centers for Medicare and Medicaid Services under 42 C.F.R. Section 488.408 against the facility; or

(2) a penalty the facility appeals under 42 C.F.R. Part 498 before the facility exhausts all rights of appeal if the federal requirement is the same or substantially similar to a requirement in this chapter or Chapter 32, Human Resources Code, and Subdivision (1) does not apply.

SECTION 4. Amends Subchapter C, Chapter 242, Health and Safety Code, by adding Section 242.075, as follows:

Sec. 242.075. PROHIBITED RETALIATION. 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.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2025.