

By: Rose

H.B. No. 5396

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of inpatient rehabilitation facilities; imposing fees; providing civil and administrative penalties; creating criminal offenses.

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

SECTION 1. This Act shall be known as the Eddie Bernice Johnson Inpatient Rehabilitation Facility Regulatory Act of 2025.

SECTION 2. Section 166.004(a), Health and Safety Code, is amended to read as follows:

(a) In this section, "health care provider" means:

- (1) a hospital;
- (2) an institution licensed under Chapter 242, including a skilled nursing facility;
- (3) a home and community support services agency;
- (4) an assisted living facility; ~~and~~
- (5) a special care facility; and
- (6) an inpatient rehabilitation facility licensed under Chapter 260E.

SECTION 3. Section 241.003(15), Health and Safety Code, is amended to read as follows:

(15) "Special hospital" means an establishment, other than an inpatient rehabilitation facility licensed under Chapter 260E, that:

- (A) offers services, facilities, and beds for use

1 for more than 24 hours for two or more unrelated individuals who are
2 regularly admitted, treated, and discharged and who require
3 services more intensive than room, board, personal services, and
4 general nursing care;

5 (B) has clinical laboratory facilities,
6 diagnostic X-ray facilities, treatment facilities, or other
7 definitive medical treatment;

8 (C) has a medical staff in regular attendance;
9 and

10 (D) maintains records of the clinical work
11 performed for each patient.

12 SECTION 4. Section 260A.001(5), Health and Safety Code, is
13 amended to read as follows:

14 (5) "Facility" means:

15 (A) an institution as that term is defined by
16 Section 242.002;

17 (B) an assisted living facility as that term is
18 defined by Section 247.002; ~~and~~

19 (C) a prescribed pediatric extended care center
20 as that term is defined by Section 248A.001; and

21 (D) an inpatient rehabilitation facility
22 licensed under Chapter 260E.

23 SECTION 5. Subtitle B, Title 4, Health and Safety Code, is
24 amended by adding Chapter 260E to read as follows:

25 CHAPTER 260E. INPATIENT REHABILITATION FACILITIES

26 SUBCHAPTER A. GENERAL PROVISIONS

27 Sec. 260E.0101. DEFINITIONS. In this chapter:

1 (1) "Assisted living facility" means a facility
2 licensed under Chapter 247.

3 (2) "Commission" means the Health and Human Services
4 Commission.

5 (3) "Controlling person" means a person described by
6 Section 260E.0102.

7 (4) "Executive commissioner" means the executive
8 commissioner of the commission.

9 (5) "Hospital" means a hospital licensed under Chapter
10 241.

11 (6) "Inpatient rehabilitation facility" means a
12 freestanding establishment or unit within an acute care hospital or
13 assisted living facility that primarily provides an intensive
14 rehabilitation program for patients and has the capacity to provide
15 three hours of intense rehabilitation services per day to patients
16 admitted to the facility.

17 Sec. 260E.0102. CONTROLLING PERSON. (a) A person is a
18 controlling person of an inpatient rehabilitation facility if the
19 person has the ability, acting alone or in concert with others, to
20 directly or indirectly influence, direct, or cause the direction of
21 the management, expenditure of money, or policies of the facility
22 or other person affiliated with the facility.

23 (b) For purposes of this chapter, "controlling person"
24 includes:

25 (1) a management company, landlord, or other business
26 entity that operates, or enters into a contract with another person
27 for the operation of, an inpatient rehabilitation facility;

1 (2) any person who is a controlling person of a
2 management company or other business entity that operates the
3 facility or enters into a contract with another person for the
4 operation of the facility; and

5 (3) any other individual who, because of a personal,
6 familial, or other relationship with the owner, manager, landlord,
7 tenant, or health care provider of the facility, is in a position of
8 actual control or authority with respect to the facility, without
9 regard to whether the individual is formally named as an owner,
10 manager, director, officer, provider, consultant, contractor, or
11 employee of the facility.

12 (c) Notwithstanding this section, for purposes of this
13 chapter, a controlling person of an inpatient rehabilitation
14 facility or of a management company or other business entity
15 described by Subsection (b)(1) that is a publicly traded
16 corporation or is controlled by a publicly traded corporation means
17 an officer or director of the corporation. The term does not
18 include a shareholder or lender of the corporation.

19 (d) A controlling person described by Subsection (b)(3)
20 does not include an individual, including an employee, lender,
21 secured creditor, or landlord, who does not exercise any influence
22 or control, whether formal or actual, over the operation of an
23 inpatient rehabilitation facility.

24 (e) The executive commissioner may adopt rules to define the
25 ownership interests and other relationships that qualify a person
26 as a controlling person of an inpatient rehabilitation facility.

27 Sec. 260E.0103. ADMISSIBILITY OF CERTAIN EVIDENCE IN CIVIL

1 ACTIONS. (a) The following information is not admissible as
2 evidence in a civil action:

3 (1) a commission determination that an inpatient
4 rehabilitation facility is in violation of this chapter or a rule
5 adopted under this chapter; or

6 (2) the assessment against or payment by the facility
7 of a penalty assessed under this chapter.

8 (b) This section does not apply in an enforcement action in
9 which this state or an agency or political subdivision of this state
10 is a party.

11 (c) Notwithstanding this section, evidence described by
12 Subsection (a) is admissible as evidence in a civil action only if:

13 (1) the evidence relates to a material violation of
14 this chapter or a rule adopted under this chapter or assessment of a
15 monetary penalty with respect to:

16 (A) the particular incident and the particular
17 individual whose personal injury is the basis of the civil action
18 claim; or

19 (B) a commission determination directly
20 involving substantially similar conduct that occurred at the
21 inpatient rehabilitation facility in the year preceding the date of
22 the particular incident on which the civil action claim is based;

23 (2) the evidence of a material violation has been
24 affirmed by a final adjudicated and unappealable commission order
25 after formal appeal; and

26 (3) the record is otherwise admissible under the Texas
27 Rules of Evidence.

1 SUBCHAPTER B. LICENSING, FEES, AND INSPECTIONS

2 Sec. 260E.0201. LICENSE REQUIRED. A person, acting
3 severally or jointly with any other person, may not establish,
4 conduct, or maintain an inpatient rehabilitation facility in this
5 state unless the person holds a license issued under this chapter.

6 Sec. 260E.0202. APPLICATION FOR LICENSE OR LICENSE RENEWAL.

7 (a) An applicant for a license or license renewal shall submit to
8 the commission in the form and manner the commission requires a
9 complete application accompanied by the license fee.

10 (b) An applicant for a license or license renewal shall
11 provide with the application evidence that affirmatively
12 establishes the applicant's ability to comply with:

13 (1) minimum standards of medical care, rehabilitation
14 care, nursing care, and financial condition; and

15 (2) any other applicable state or federal standards.

16 (c) In reviewing an application under this section, the
17 commission shall evaluate the background and qualifications of:

18 (1) the applicant;

19 (2) a partner, officer, director, or managing employee
20 of the applicant;

21 (3) a person who owns or who controls the owner of the
22 premises in which the inpatient rehabilitation facility operates or
23 is to operate; and

24 (4) a controlling person with respect to the inpatient
25 rehabilitation facility for which the application is submitted.

26 (d) For purposes of the evaluation required by Subsection
27 (c), the commission shall require an applicant to file a sworn

affidavit of a satisfactory compliance history and any other information the commission requires to substantiate a satisfactory compliance history relating to each inpatient rehabilitation facility the applicant or a person described by Subsection (c) operated in this state or outside of this state at any time preceding the date the application is submitted. The executive commissioner by rule shall determine the requirements for a satisfactory compliance history. The commission may:

(1) consider and evaluate the compliance history of the applicant and each person described by Subsection (c) for any period during which the applicant or person operated an inpatient rehabilitation facility in this state or outside this state; and

(2) require the applicant to provide information relating to the financial history of the applicant and each person described by Subsection (c) for an inpatient rehabilitation facility the applicant or person operated outside this state at any time preceding the date the application is submitted.

(e) Information the commission obtains under this section regarding an applicant's financial history is confidential and may not be disclosed to the public.

Sec. 260E.0203. ISSUANCE AND RENEWAL OF LICENSE. (a) After the commission receives an application for a license or license renewal and the fee, the commission shall issue to the applicant a license if, after inspection and investigation, the commission determines that:

(1) the applicant and each person described by Section 260E.0202(c) satisfy the requirements under this chapter and rules

or standards adopted under this chapter; and

(2) the inpatient rehabilitation facility for which the application is submitted complies with this chapter and rules or standards adopted under this chapter.

(b) Except as provided by Subsection (g), a license for an inpatient rehabilitation facility may be renewed every three years after:

(1) an inspection is completed;

(2) the applicant submits a completed application that complies with Section 260E.0202 and pays the required license fee; and

(3) the applicant submits to the commission and the commission approves a report that complies with commission rules specifying:

(A) the date the report must be submitted;

(B) the information the report must contain; and

(C) the form of the report.

(c) Except as provided by Subsection (d), the commission may issue a license only:

(1) to the person named in an application and for the premises of an inpatient rehabilitation facility specified in the application; and

(2) for the maximum number of beds specified in the application.

(d) The commission may issue one license for multiple inpatient rehabilitation facilities if:

(1) each building in which patients receive services

from the facilities included in the license are subject to the control and direction of the same governing body;

(2) each building in which patients receive services are within a 30-mile radius of the applicant's primary physical address;

(3) the organized medical staff of each facility included in the license are integrated;

(4) each facility employs the same chief executive officer who:

(A) reports directly to the governing body; and

(B) has administrative authority to exercise control and surveillance over all administrative activities of the facility;

(5) each facility employs the same chief medical officer who:

(A) reports directly to the governing body; and

(B) is responsible for all medical staff activities of the facility;

(6) each facility building included in the license that is geographically separate from other buildings of the same facility contains at least one inpatient nursing unit, unless only diagnostic, laboratory services, or a combination of diagnostic and laboratory services are provided to facility patients in the building; and

(7) each facility included in the license complies with the emergency services standards for a special hospital, as that term is defined by Section [241.003](#).

1 (e) The commission may waive the requirement under
2 Subsection (d)(7) for an inpatient rehabilitation facility if
3 another facility included in the license:

4 (1) complies with the emergency services standards for
5 a general hospital, as that term is defined by Section 241.003; and

6 (2) is in close geographic proximity to the facility.

7 (f) The executive commissioner by rule shall establish
8 procedures for granting a waiver under Subsection (e). The rules
9 must require the commission to determine that granting the waiver:

10 (1) will facilitate the creation or operation of the
11 inpatient rehabilitation facility seeking the waiver; and

12 (2) is in the best interest of the individuals served
13 or to be served by the facility.

14 (g) An initial license issued for an inpatient
15 rehabilitation facility under this chapter is a probationary
16 license and is valid only until the first anniversary of the date of
17 issuance. On expiration of the probationary license, the
18 commission shall issue a regular license only if:

19 (1) the commission determines the license holder and
20 each person described by Section 260E.0202(c) satisfy the
21 requirements established under this chapter and rules or standards
22 adopted under this chapter;

23 (2) an inspection is completed;

24 (3) the license holder pays the license fee; and

25 (4) the license holder submits and the commission
26 approves the report required under Subsection (b)(3).

27 (h) The executive commissioner by rule shall adopt a system

1 under which an appropriate number of licenses the commission issues
2 under this chapter expire on staggered dates occurring in each
3 three-year period. If the expiration date of a license changes as a
4 result of this subsection, the commission shall prorate the license
5 fee for that license as appropriate.

6 (i) A license may not be transferred or assigned without the
7 commission's written approval.

8 (j) A license holder shall post the license in a conspicuous
9 place on the premises of the inpatient rehabilitation facility.

10 Sec. 260E.0204. LIST OF FACILITIES WITH EXCELLENT OPERATING
11 RECORDS; CHANGE OF OWNERSHIP; EXPEDITED LICENSE ISSUANCE. (a) The
12 commission shall maintain a current list of license holders for
13 inpatient rehabilitation facilities in this state that the
14 commission determines have excellent operating records based on the
15 information available to the commission. The executive
16 commissioner by rule shall establish specific criteria for the
17 commission's use in determining whether to include a license holder
18 on the list.

19 (b) The commission shall establish a procedure under which a
20 license holder included on the list described by Subsection (a) who
21 submits to the commission an application for a change of ownership
22 to operate an existing inpatient rehabilitation facility may obtain
23 a license for that facility on an expedited basis. The procedure
24 may allow a license holder to submit to the commission an affidavit
25 demonstrating the license holder satisfies the criteria necessary
26 for inclusion on the list and the requirements under Subsection
27 (c).

1 (c) An applicant for an expedited license under this section
2 must satisfy each applicable requirement that an applicant for a
3 license renewal must satisfy under this chapter, including Section
4 260E.0202(c), and rules adopted under this chapter. A requirement
5 relating to inspections or to an accreditation review applies only
6 to inpatient rehabilitation facilities operated by an applicant at
7 the time the applicant submits the application for a change of
8 ownership.

9 Sec. 260E.0205. TEMPORARY LICENSE FOR CHANGE OF OWNERSHIP.

10 (a) For purposes of this section, a temporary license is a 90-day
11 license for a temporary change of ownership issued to an applicant
12 who proposes to become the new operator of an inpatient
13 rehabilitation facility existing on the date the application is
14 submitted.

15 (b) After receiving an application for a temporary change of
16 ownership, the commission shall issue a temporary license to the
17 applicant if, after investigation, the commission determines the
18 applicant and each person described by Section 260E.0202(c)
19 satisfy:

20 (1) the requirements under Section 260E.0202(b); and
21 (2) the commission's requirements for the background
22 and qualifications of the persons described by Sections
23 260E.0202(c) and (d).

24 (c) Except as provided by Subsection (d), the commission may
25 not issue a temporary license to an applicant before the 31st day
26 after the date the commission receives both:

27 (1) the application for a temporary change of

1 ownership; and

2 (2) written notice from the current license holder of
3 the inpatient rehabilitation facility for which the application is
4 submitted of that license holder's intent to transfer operation of
5 the facility to the applicant beginning on a date the applicant
6 specifies.

7 (d) The executive commissioner by rule shall establish
8 criteria under which the commission may waive the 30-day
9 requirement or the notification requirement under Subsection (c).
10 The criteria may include a forcible entry and detainer, death,
11 divorce, or any other event that affects a current license holder's
12 ownership of an inpatient rehabilitation facility.

13 (e) After the commission receives an application for a
14 temporary change of ownership or written notice under Subsection
15 (c), the commission may place a hold on payments to the current
16 license holder for an inpatient rehabilitation facility in an
17 amount not to exceed the average of the monthly vendor payments paid
18 to the facility, as the commission determines. The commission:

19 (1) shall disburse the payments not later than the
20 120th day after the date the final reporting requirements are
21 satisfied and any resulting informal reviews or formal appeals are
22 resolved; and

23 (2) may reduce the amount disbursed by the amount the
24 former license holder owes to the commission under a Medicaid
25 contract or license.

26 (f) The executive commissioner by rule shall define the
27 factors constituting a change of ownership for an inpatient

1 rehabilitation facility. In adopting the rules, the executive
2 commissioner shall consider:

3 (1) the proportion of ownership interest being
4 transferred to another person;

5 (2) the addition or removal of a stockholder, partner,
6 owner, or other controlling person;

7 (3) the reorganization of a license holder into a
8 different type of business entity; and

9 (4) the death or incapacity of a stockholder, partner,
10 or owner.

11 (g) The executive commissioner may adopt rules requiring a
12 license holder to notify the commission of any change, including a
13 change that does not constitute a change of ownership, as that term
14 is defined by commission rules. This section does not prohibit the
15 commission from acting under Section 260E.0301 or any other
16 provision of this chapter.

17 (h) The commission shall issue or deny a temporary license
18 not later than the 31st day after the date the commission receives a
19 completed application for a temporary change of ownership. The
20 effective date of a temporary license issued under this section is
21 the date requested in the application unless:

22 (1) the commission does not receive the application
23 and written notice described by Subsection (c) at least 30 days
24 before that date; and

25 (2) the commission did not waive those requirements in
26 accordance with Subsection (d).

27 (i) If the commission does not receive an application for a

temporary change of ownership and written notice under Subsection (c) at least 30 days before the effective date requested in the application and the commission did not waive those requirements in accordance with Subsection (d), the effective date of the temporary license is the 31st day after the date the commission receives both the application and the notice.

(j) Except as provided by Subsection (k), after the commission issues a temporary license to an applicant, the commission shall, as soon as reasonably possible, conduct an inspection or survey of the inpatient rehabilitation facility for which the license is issued in accordance with Section 260E.0213. During the period between the date a temporary license is issued and the date the facility is inspected or surveyed under Section 260E.0213 or desk reviewed under Subsection (k), the commission may not place a hold on vendor payments to the temporary license holder.

(k) The executive commissioner by rule shall establish criteria under which the commission may substitute a desk review of an inpatient rehabilitation facility's compliance with applicable requirements for the on-site inspection or survey under Subsection (j).

(l) After the commission conducts an inspection or survey under Subsection (j) or a desk review under Subsection (k) of an inpatient rehabilitation facility, the commission shall issue a license under Section 260E.0203 to the temporary license holder if the facility passes the inspection, survey, or desk review and the applicant meets the requirements under that section. If the facility fails to pass the inspection, survey, or desk review or the

temporary license holder fails to meet the requirements under that section, the commission may:

(1) place a hold on vendor payments to the temporary license holder; and

(2) take any other action authorized by this chapter.

(m) If a license holder meets the requirements under Section 260E.0203 and the inpatient rehabilitation facility passes an initial or subsequent inspection, a survey, or a desk review before the temporary license expires, the license issued under Section 260E.0203 is considered effective on the date the commission determines under Subsection (h) or (i).

(n) A temporary license issued under this section expires on the 90th day after the effective date of the license established under Subsection (h) or (i).

Sec. 260E.0206. LICENSE FEES. (a) The commission shall charge each inpatient rehabilitation facility a license fee for an initial license or a license renewal.

(b) The executive commissioner by rule shall adopt the license fees in amounts as prescribed by Section 12.0111 and in accordance with a schedule under which the fee amount is determined by the number of beds in an inpatient rehabilitation facility. A minimum license fee may be established.

(c) The amount of a license fee adopted under this chapter must be based on the estimated cost to and effort expended by the commission to issue or renew the license.

(d) All license fees collected shall be deposited in the state treasury to the credit of the commission to administer and

1 enforce this chapter.

2 (e) Notwithstanding Subsection (d), to the extent money
3 received from the license fees collected under this chapter exceeds
4 the commission's costs, the commission may use the money to
5 administer Chapter 324 and similar laws that require the commission
6 to provide information related to inpatient rehabilitation care to
7 the public. The executive commissioner may not consider the costs
8 of administering Chapter 324 or similar laws in establishing the
9 amount of a license fee.

10 Sec. 260E.0207. GRADING OF FACILITIES. (a) The executive
11 commissioner may adopt by rule and publish and the commission may
12 enforce minimum standards relating to the grading of an inpatient
13 rehabilitation facility to identify the facilities that provide
14 above the minimum level of services and personnel as the executive
15 commissioner establishes.

16 (b) An inpatient rehabilitation facility recognized with a
17 superior grade, as the executive commissioner determines by rule,
18 shall prominently display the grade in an area of the facility that
19 is accessible to the public.

20 (c) As an incentive to obtain the superior grade, an
21 inpatient rehabilitation facility may advertise the facility's
22 grade, except the facility may not advertise a superior grade that
23 has been revoked.

24 (d) The commission may not award a superior grade to an
25 inpatient rehabilitation facility that, during the year preceding
26 the grading inspection, violated a state or federal law or rule
27 relating to:

1 (1) the health, safety, or welfare of the facility's
2 patients;

3 (2) patient funds;

4 (3) the confidentiality of a patient's records;

5 (4) the financial practices of the facility; or

6 (5) the control of medication in the facility.

7 (e) The commission shall revoke an inpatient rehabilitation
8 facility's superior grade if the facility:

9 (1) does not meet the criteria established for a
10 superior grade; or

11 (2) violates a state or federal law or rule described
12 by Subsection (d).

13 Sec. 260E.0208. RULES; MINIMUM STANDARDS. (a) The
14 executive commissioner by rule shall establish and the commission
15 shall enforce rules and minimum standards to implement this
16 chapter, including rules and minimum standards relating to quality
17 of life, quality of care, and patients' rights.

18 (b) In adopting rules, the executive commissioner shall:

19 (1) consider the conditions of participation for
20 certification under Title XVIII of the Social Security Act (42
21 U.S.C. Section 1395 et seq.) and the Joint Commission's standards;
22 and

23 (2) attempt to achieve consistency with those
24 conditions and standards.

25 (c) The rules and standards the executive commissioner
26 adopts under this chapter:

27 (1) may be more stringent than the standards imposed

1 by federal law for certification for participation in the state
2 Medicaid program; and

3 (2) may not be less stringent than the Medicaid
4 certification standards and regulations imposed under the Omnibus
5 Budget Reconciliation Act of 1987 (OBRA), Pub. L. No. 100-203, for
6 an inpatient rehabilitation facility that is a unit of a nursing
7 facility or an assisted living facility.

8 (d) To implement Sections 260E.0202(c) and (d), the
9 executive commissioner by rule shall adopt minimum standards for
10 the background and qualifications of each person described by
11 Section 260E.0202(c). The commission may not issue or renew a
12 license if a person described by Section 260E.0202(c) does not meet
13 the minimum standards adopted under this section.

14 (e) In addition to other standards or rules required by this
15 chapter, the executive commissioner shall adopt and publish and the
16 commission shall enforce minimum standards relating to:

17 (1) the construction of an inpatient rehabilitation
18 facility, including plumbing, heating, lighting, ventilation, and
19 other housing conditions, to ensure the patients' health, safety,
20 comfort, and protection from fire hazard;

21 (2) the regulation of the number and qualification of
22 all personnel, including management and nursing personnel,
23 responsible for any part of the care provided to patients;

24 (3) requirements for in-service education of all
25 employees who have any contact with patients;

26 (4) training on the care of individuals with
27 Alzheimer's disease and related disorders for employees who work

1 with those individuals;

2 (5) sanitary and related conditions in a facility and
3 the facility's surroundings, including water supply, sewage
4 disposal, food handling, and general hygiene, to ensure the
5 patients' health, safety, and comfort;

6 (6) the nutritional needs of each patient according to
7 good nutritional practice or the recommendations of the health care
8 provider attending the patient;

9 (7) equipment essential to the patients' health and
10 welfare;

11 (8) the use and administration of medication in
12 conformity with applicable law and rules;

13 (9) care and treatment of patients and any other
14 matter related to patient health, safety, and welfare;

15 (10) licensure of facilities;

16 (11) compliance with other state and federal laws
17 affecting the health, safety, and rights of patients;

18 (12) compliance with nursing peer review under
19 Subchapter I, Chapter 301, Occupations Code, and Chapter 303,
20 Occupations Code, and the rules of the Texas Board of Nursing
21 relating to peer review; and

22 (11) implementation of this chapter.

23 (f) The executive commissioner shall adopt and publish and
24 the commission shall enforce minimum standards requiring
25 appropriate training in geriatric care for each individual who
26 provides services to geriatric patients in an inpatient
27 rehabilitation facility and who holds a license or certificate

issued by a state agency that authorizes the individual to provide the services. The minimum standards may require each licensed or certified individual to complete an appropriate program of continuing education or in-service training, as determined by commission rule, on a schedule determined by commission rule.

(g) To administer the surveys for provider certification provided for by federal law and rules, the commission shall identify each area of care subject to both federal certification and state licensing requirements. For each area of care subject to the same standard under both federal certification and state licensing requirements, an inpatient rehabilitation facility in compliance with the federal certification standard is considered to be in compliance with the same state licensing requirement.

(h) The minimum standards the executive commissioner adopts under this section must require each inpatient rehabilitation facility, as part of an existing training program, to provide each registered nurse, licensed vocational nurse, nurse aide, and nursing assistant who provides nursing services in the facility at least one hour of training each year in caring for persons with dementia.

(i) The commission by order may waive or modify a requirement under this chapter or a minimum standard the commission adopts by rule under this section for a particular inpatient rehabilitation facility if the commission determines the waiver or modification will facilitate the creation or operation of the facility and the waiver or modification is in the best interests of the individuals served or to be served by the facility.

1 (j) The executive commissioner by rule shall establish
2 procedures and criteria for issuing a waiver or modification order
3 under Subsection (i). The criteria must include at a minimum an
4 assessment of the appropriateness of the waiver or modification
5 compared to the best interests of the individuals served or to be
6 served by the facility.

7 (k) If the commission orders a waiver or modification under
8 Subsection (i), the commission shall document the waiver or
9 modification order in the licensing record of the inpatient
10 rehabilitation facility granted the waiver or modification. The
11 executive commissioner by rule shall specify the type and
12 specificity of the documentation that must be included in the
13 licensing record.

14 (l) An inpatient rehabilitation facility must contain an
15 emergency treatment room but is not required to have an emergency
16 department.

17 Sec. 260E.0209. PATIENT TRANSFERS. (a) The executive
18 commissioner shall adopt rules on:

19 (1) the transfer of patients between inpatient
20 rehabilitation facilities that have not executed a transfer
21 agreement; and

22 (2) services not included in a transfer agreement.

23 (b) The rules the executive commissioner adopts under
24 Subsection (a) must:

25 (1) ensure a patient transfer between inpatient
26 rehabilitation facilities is accomplished in accordance with
27 facility policies resulting in medically appropriate transfers

1 from health care provider to health care provider and from facility
2 to facility by providing that:

3 (A) the facility receiving the patient is
4 notified before the patient transfer and confirms the patient meets
5 the facility's admissions criteria relating to appropriate bed,
6 provider, and other services necessary to treat the patient;

7 (B) the patient is stabilized before and during
8 the patient transfer using medically appropriate life support
9 measures that a reasonable and prudent health care provider
10 exercising ordinary care in the same or a similar locality would
11 use;

12 (C) appropriate personnel and equipment are used
13 for the patient transfer in accordance with the care a reasonable
14 and prudent health care provider exercising ordinary care in the
15 same or a similar locality would use for the transfer;

16 (D) all necessary records for the patient's
17 continuing care are transferred to the facility receiving the
18 patient; and

19 (E) the patient transfer is not predicated on
20 arbitrary, capricious, or unreasonable discrimination because of
21 race, religion, national origin, age, sex, physical condition, or
22 economic status;

23 (2) ensure an inpatient rehabilitation facility may
24 not transfer a patient who is experiencing an emergency medical
25 condition that has not been stabilized unless:

26 (A) the patient or a legally responsible person
27 acting on the patient's behalf, after being informed of the

1 facility's obligations under this section and of the risk of
2 transfer, in writing requests transfer to another facility;

3 (B) a licensed physician signs a certification,
4 which includes a summary of the risks and benefits based on the
5 information available at the time of transfer, that the medical
6 benefits reasonably expected from the provision of appropriate
7 medical treatment at another facility outweigh the increased risks
8 to the patient and, in the case of a pregnant patient in labor, to
9 the unborn child from effecting the transfer; or

10 (C) if a licensed physician is not physically
11 present in the emergency treatment room or department at the time a
12 patient is transferred, a qualified medical professional signs a
13 certification described by Paragraph (B) after a licensed
14 physician, in consultation with the professional, makes the
15 determination described by that paragraph and subsequently
16 countersigns the certificate;

17 (3) require a public inpatient rehabilitation
18 facility to accept a patient transfer of an eligible patient if the
19 facility has appropriate facilities, services, and staff available
20 for providing care to the patient;

21 (4) require an inpatient rehabilitation facility to
22 take all reasonable steps to secure the informed refusal of a
23 patient, or of a person acting on the patient's behalf, to a
24 transfer or to related examination and treatment; and

25 (5) recognize any contractual, statutory, or
26 regulatory obligations that may exist between a patient and a
27 designated or mandated health care provider as those obligations

1 apply to the transfer of emergency or nonemergency patients.

2 Sec. 260E.0210. FIRE SAFETY REQUIREMENTS. (a) The
3 executive commissioner shall adopt rules necessary to specify the
4 edition of the Life Safety Code of the National Fire Protection
5 Association to be used in establishing the life safety requirements
6 for an inpatient rehabilitation facility licensed under this
7 chapter.

8 (b) The executive commissioner shall adopt the edition of
9 the Life Safety Code of the National Fire Protection Association
10 for fire safety as designated by federal law and rules for an
11 inpatient rehabilitation facility or portion of a facility
12 constructed after September 1, 1993, and for a facility or portion
13 of a facility operating or approved for construction on or before
14 September 1, 1993.

15 (c) The executive commissioner may not require more
16 stringent fire safety standards than those required by federal law
17 and rules. The rules adopted under this section may not prevent an
18 inpatient rehabilitation facility licensed under this chapter from
19 voluntarily conforming to fire safety standards that are compatible
20 with, equal to, or more stringent than those the executive
21 commissioner adopts.

22 (d) An inpatient rehabilitation facility that exists on
23 September 1, 2025, may continue the facility's use or occupancy
24 that existed on that date if the facility complies with fire safety
25 standards and ordinances in effect on that date.

26 (e) Notwithstanding this section, a municipality may enact
27 additional and more stringent fire safety standards applicable to

1 new construction on or after September 1, 2025.

2 (f) The executive commissioner shall adopt rules to
3 implement an expedited inspection process to allow an applicant for
4 an initial license or a license renewal to obtain a life safety code
5 and physical plant inspection not later than the 15th day after the
6 date the applicant submits the request. The commission may charge a
7 fee to recover the cost of the expedited inspection. The rules must
8 allow the commission to charge different fee amounts based on the
9 size of the inpatient rehabilitation facility.

10 Sec. 260E.0211. REGISTRATION WITH TEXAS INFORMATION AND
11 REFERRAL NETWORK. (a) An inpatient rehabilitation facility
12 licensed under this chapter shall register with the Texas
13 Information and Referral Network under Section [526.0004](#),
14 Government Code, to assist this state in identifying individuals
15 needing assistance if an area is evacuated because of a disaster or
16 other emergency.

17 (b) An inpatient rehabilitation facility is not required to
18 identify individual patients who may require assistance in an
19 evacuation or to register individual patients with the Texas
20 Information and Referral Network for evacuation assistance.

21 (c) An inpatient rehabilitation facility shall notify each
22 patient and the patient's next of kin or guardian regarding the
23 steps necessary to register for evacuation assistance with the
24 Texas Information and Referral Network.

25 Sec. 260E.0212. REQUIRED POSTING OF CERTAIN DOCUMENTS. (a)
26 Each inpatient rehabilitation facility shall prominently and
27 conspicuously post for display in a public area of the facility that

1 is readily available to patients, employees, and visitors:

2 (1) the license issued under this chapter;

3 (2) a sign the commission prescribes specifying
4 complaint procedures established under this chapter or rules
5 adopted under this chapter and the steps necessary to register a
6 complaint with the commission;

7 (3) a notice in a form the commission prescribes
8 stating that licensing inspection reports and other related reports
9 detailing deficiencies the commission cites are available at the
10 facility for public inspection and providing the commission's
11 toll-free telephone number to be used to obtain information
12 concerning the facility;

13 (4) a concise summary of the most recent inspection
14 report relating to the facility;

15 (5) notice of the availability of commission summary
16 reports relating to the quality of care, recent investigations,
17 litigation, and other aspects of the facility's operation;

18 (6) notice that the commission, if applicable, can
19 provide information about the facility administrator;

20 (7) any notice or written statement required to be
21 posted under Section 260E.0314(c);

22 (8) notice that informational materials relating to
23 the facility's compliance history are available for inspection at a
24 location in the facility specified by the sign;

25 (9) notice that employees, other staff, patients,
26 volunteers, and family members and guardians of patients are
27 protected from discrimination or retaliation as provided by

1 Sections 260A.014 and 260A.015; and

2 (10) a sign requiring reporting of suspected abuse,
3 neglect, and exploitation as described by Section 260A.006(a).

4 (b) The notice required by Subsection (a)(8) must also be
5 posted at each door providing ingress to and egress from an
6 inpatient rehabilitation facility. The facility shall ensure the
7 informational materials described by that subsection:

8 (1) are maintained in a well-lighted accessible
9 location; and

10 (2) include a statement in the form the commission
11 requires of the facility's record of compliance with this chapter
12 and the rules and standards adopted under this chapter that is
13 updated not less than twice a month and that reflects the record of
14 compliance during the year preceding the date the statement is last
15 updated.

16 (c) The notice required by Subsection (a)(9) must be posted
17 in English and a second language as required by commission rule.

18 (d) The commission shall post detailed compliance
19 information regarding each inpatient rehabilitation facility the
20 commission licenses, including the information a facility is
21 required to post under Subsection (b), on the commission's Internet
22 website. The commission shall update the information every month
23 to provide the most recent compliance information on each facility.

24 Sec. 260E.0213. INSPECTIONS. (a) The commission or the
25 commission's representative may conduct any inspection, including
26 an unannounced inspection or follow-up inspection, survey, or
27 investigation that the commission considers necessary and may enter

1 the premises of an inpatient rehabilitation facility at reasonable
2 times to conduct an inspection, survey, or investigation in
3 accordance with commission rules.

4 (b) The commission is entitled to access books, records, and
5 other documents maintained by or on behalf of an inpatient
6 rehabilitation facility to the extent necessary to enforce this
7 chapter and the rules adopted under this chapter.

8 (c) A license holder or an applicant for a license is
9 considered to have consented to entry and inspection of the
10 inpatient rehabilitation facility by a representative of the
11 commission in accordance with this chapter.

12 (d) The commission shall establish procedures to preserve
13 all relevant evidence of conditions found during an inspection,
14 survey, or investigation that the commission reasonably believes
15 threaten the health and safety of a patient, including photography
16 and photocopying of relevant documents, including a license
17 holder's notes, a physician's orders, and pharmacy records, for use
18 in any legal proceeding.

19 (e) When photographing a patient, the commission:

20 (1) shall respect the privacy of the patient to the
21 greatest extent possible; and

22 (2) may not disclose the patient's identity to the
23 public.

24 (f) An inpatient rehabilitation facility, an officer or
25 employee of the facility, and a patient's attending physician are
26 not civilly liable for surrendering confidential or private
27 material under this section, including physician's orders,

1 pharmacy records, notes and memoranda of a state office, and
2 patient files.

3 (g) The commission shall establish in clear and concise
4 language a form to summarize each inspection report and complaint
5 investigation report.

6 (h) The executive commissioner shall establish proper
7 procedures to ensure that copies of all forms and reports under this
8 section are made available to consumers, service recipients, and
9 the relatives of service recipients as the executive commissioner
10 considers proper.

11 Sec. 260E.0214. UNANNOUNCED INSPECTIONS. (a) The
12 commission shall annually conduct at least one unannounced
13 inspection of each inpatient rehabilitation facility.

14 (b) If an inpatient rehabilitation facility is a unit within
15 an assisted living facility, for at least one unannounced annual
16 inspection of the facility, the commission shall invite at least
17 one individual as a citizen advocate from:

18 (1) the AARP;
19 (2) the Texas Senior Citizen Association;
20 (3) the commission's Certified Long-term Care
21 Ombudsman; or

22 (4) another statewide organization for the elderly.

23 (c) The commission shall randomly select a number of
24 inpatient rehabilitation facilities for unannounced inspections to
25 be conducted between 5 p.m. and 8 a.m. in a percentage amount the
26 commission determines sufficient to ensure continuous compliance.
27 The inspections must be cursory to avoid to the greatest extent

1 feasible any disruption of the patients.

2 (d) The commission may require additional inspections.

3 Sec. 260E.0215. FOLLOW-UP INSPECTIONS. (a) The commission
4 or the commission's representative may conduct a follow-up
5 inspection of an inpatient rehabilitation facility after
6 conducting an inspection, survey, or investigation of the facility
7 under Section 260E.0213 or 260E.0214 to:

8 (1) evaluate and monitor the determinations of the
9 initial inspection, survey, or investigation; and

10 (2) ensure the commission is citing and punishing
11 deficiencies consistently across the state.

12 (b) If an inpatient rehabilitation facility corrects a
13 deficiency cited during a follow-up inspection within the time
14 specified by commission rule, the commission may not impose
15 additional punitive actions for the deficiency.

16 Sec. 260E.0216. REPORTING OF VIOLATIONS. (a) The
17 commission or the commission's representative conducting an
18 inspection, survey, or investigation under Section 260E.0213 or
19 260E.0214 shall:

20 (1) list each violation of a law or rule on a form the
21 commission designs for inspections; and

22 (2) identify the specific law or rule an inpatient
23 rehabilitation facility violates.

24 (b) If the commission or the commission's representative
25 conducting an inspection, survey, or investigation under Section
26 260E.0213 or 260E.0214 identifies a violation that constitutes
27 immediate jeopardy to the health or safety of a patient:

1 (1) the commission shall immediately notify the
2 inpatient rehabilitation facility's management of the violation;
3 and

4 (2) a commission representative shall remain in or be
5 accessible to the facility until the commission receives the
6 facility's plan of removal related to the violation.

7 (c) At the conclusion of an inspection, survey, or
8 investigation under Section 260E.0213 or 260E.0214, the commission
9 or the commission's representative conducting the inspection,
10 survey, or investigation shall discuss the violations with the
11 inpatient rehabilitation facility's management in an exit
12 conference. The commission or the commission's representative
13 shall leave a written list of the violations with the facility at
14 the time of the exit conference. If the commission or the
15 commission's representative discovers any additional violations
16 during the review of field notes or preparation of the official
17 final list, the commission or the commission's representative shall
18 give the facility an additional exit conference regarding the
19 additional violations. An additional exit conference must be held
20 in person and may not be held by telephone, e-mail, or facsimile
21 transmission.

22 (d) An inpatient rehabilitation facility that receives
23 notice of a violation under this section shall submit a plan to
24 correct the violations to the regional director of the public
25 health region in which the facility is located not later than the
26 10th working day after the date the facility receives the final
27 official statement of violations.

1 Sec. 260E.0217. DISCLOSURE OF UNANNOUNCED INSPECTIONS;
2 CRIMINAL PENALTY. (a) Except as expressly provided by this
3 chapter, a person commits an offense if the person intentionally
4 discloses to an unauthorized person the date, time, or any other
5 information about an unannounced inspection of an inpatient
6 rehabilitation facility before the inspection occurs.

7 (b) In this section, "unauthorized person" does not
8 include:

9 (1) the commission;
10 (2) the office of the attorney general;
11 (3) an ombudsman or representative of the commission;
12 (4) a representative of an agency or organization when
13 a Medicare or Medicaid survey is made concurrently with a licensing
14 inspection; or
15 (5) any other person or entity authorized by law to
16 make an inspection or to accompany an inspector.

17 (c) An offense under this section is a third degree felony.

18 (d) A person convicted under this section is not eligible
19 for state employment.

20 Sec. 260E.0218. OPEN HEARING. (a) The commission shall
21 hold an open hearing in a licensed inpatient rehabilitation
22 facility if the commission has taken a punitive action against the
23 facility in the preceding 12 months or if the commission receives a
24 complaint from an ombudsman, advocate, patient, or relative of a
25 patient relating to a serious or potentially serious problem in the
26 facility and the commission has reasonable cause to believe the
27 complaint is valid. The commission is not required to hold more

1 than one open meeting for a particular inpatient rehabilitation
2 facility in each year.

3 (b) The commission shall give notice of the time, place, and
4 date of a hearing under this section to:

5 (1) the inpatient rehabilitation facility at which the
6 meeting will be held;

7 (2) a patient or the designated closest living
8 relative or legal guardian of a patient, as applicable, who
9 received rehabilitation services from the facility during the 12
10 months preceding the date of the meeting; and

11 (3) appropriate state or federal agencies that work
12 with the facility.

13 (c) The commission may exclude an inpatient rehabilitation
14 facility's administrators and personnel from a hearing held under
15 this section.

16 (d) The commission shall notify the inpatient
17 rehabilitation facility at which a meeting under this section is
18 held of any complaints received at the hearing and, without
19 identifying the source of the complaints, provide a summary of the
20 complaints to the facility.

21 (e) The commission shall determine and implement a
22 mechanism to confidentially notify a complainant of the results of
23 the complaint investigation.

24 SUBCHAPTER C. GENERAL ENFORCEMENT

25 Sec. 260E.0301. DENIAL, SUSPENSION, OR REVOCATION OF
26 LICENSE. (a) In this section:

27 (1) "Abuse" has the meaning assigned by Section

1 [260A.001.](#)

2 (2) "Immediate threat to health and safety" means a
3 situation in which immediate corrective action is necessary because
4 an inpatient rehabilitation facility's noncompliance with one or
5 more requirements has caused, or is likely to cause, serious
6 injury, harm, impairment, or death to a patient.

7 (3) "Neglect" has the meaning assigned by Section
8 [260A.001.](#)

9 (b) The commission, after providing notice and opportunity
10 for a hearing to a license holder or license applicant, may deny,
11 suspend, or revoke a license if the commission determines the
12 license holder, applicant, or a person described by Section
13 260E.0202(c) has:

14 (1) violated this chapter or a rule, standard, or
15 order adopted or license issued under this chapter in either a
16 repeated or substantial manner; or

17 (2) committed an act described by Section
18 260E.0306(a)(2), (3), (4), (5), or (6).

19 (c) Except as provided by Subsection (d), the executive
20 commissioner shall revoke a license under Subsection (b) if the
21 commission determines that:

22 (1) the license holder has committed in a 24-month
23 period three violations described by Subsection (b) that constitute
24 an immediate threat to health and safety related to the abuse or
25 neglect of a patient; and

26 (2) each of the violations described by Subdivision
27 (1) is reported in connection with a separate survey, inspection,

or investigation visit that occurred on separate entrance and exit dates.

(d) The executive commissioner may not revoke a license under Subsection (c) based on a violation described by Subsection (c)(1) if:

(1) the violation and the determination of immediate threat to health and safety are not included on the written list of violations left with the facility at the time of the initial exit conference under Section 260E.0216(c) for a survey, inspection, or investigation;

(2) the violation is not included on the final statement of violations described by Section 260E.0216; or

(3) the violation has been reviewed under the informal dispute resolution process established by Section [526.0202](#), Government Code, and a determination was made that:

(A) the violation should be removed from the license holder's record; or

(B) the violation is reduced in severity so that the violation is no longer cited as an immediate threat to health and safety related to the abuse or neglect of a patient.

(e) The status of a person as an applicant for a license or a license holder is preserved until final disposition of the contested matter, except as the court having jurisdiction of a judicial review of the matter may order in the public interest for the welfare and safety of the patients.

(f) In a license revocation case under Subsection (c), to ensure the health and safety of inpatient rehabilitation facility

patients, the commission may:

(1) assist with obtaining a new operator for the facility; or

(2) assist with the relocation of patients to another facility.

(g) A court having jurisdiction of a judicial review of the matter may not order arbitration, whether on motion of any party or on the court's own motion, to resolve a dispute involving the denial, suspension, or revocation of a license under this section or the conduct with respect to which the denial, suspension, or revocation of the license is sought.

(h) The executive commissioner may stay a license revocation required by Subsection (c) if the executive commissioner determines the stay would not jeopardize the health and safety of the inpatient rehabilitation facility patients or place the patients at risk of abuse or neglect. The executive commissioner by rule shall establish criteria under which a license revocation may be stayed under this subsection. The executive commissioner shall follow negotiated rulemaking procedures prescribed by Chapter 2008, Government Code, for the adoption of rules establishing the criteria. The criteria established must authorize the executive commissioner to stay a license revocation of a facility for which the commission has deployed a rapid response team under Section 255.004, if the facility has cooperated with the rapid response team and demonstrated improvement in quality of care, as determined by the rapid response team.

Sec. 260E.0302. EMERGENCY SUSPENSION OR CLOSING ORDER. (a)

1 The commission shall suspend an inpatient rehabilitation
2 facility's license or order an immediate closing of part of the
3 facility if:

4 (1) the commission determines the facility is
5 operating in violation of the standards prescribed by this chapter;
6 and

7 (2) the violation creates an immediate threat to the
8 health and safety of a patient.

9 (b) The executive commissioner by rule shall provide for the
10 placement of patients during an inpatient rehabilitation
11 facility's suspension or closing to ensure their health and safety.

12 (c) An order suspending a license or closing a part of an
13 inpatient rehabilitation facility under this section is
14 immediately effective on the date on which the license holder
15 receives written notice or a later date specified in the order.

16 (d) An order suspending a license or ordering the immediate
17 closure of a part of an inpatient rehabilitation facility is valid
18 until the 10th day following the effective date of the order.

19 (e) A court having jurisdiction of a judicial review of the
20 matter may not order arbitration, whether on motion of any party or
21 on the court's own motion, to resolve a dispute involving an
22 emergency suspension or closing order under this section or the
23 conduct with respect to which the emergency suspension or closing
24 order is sought.

25 Sec. 260E.0303. INJUNCTION. (a) The commission may
26 petition a district court for:

27 (1) a temporary restraining order to restrain a person

1 from a violation or threatened violation of the standards
2 prescribed by this chapter or any other law affecting inpatient
3 rehabilitation facility patients if the commission reasonably
4 believes the violation or threatened violation creates an immediate
5 threat to the health and safety of a patient; and

6 (2) an injunction to restrain a person from a
7 violation or threatened violation of the standards prescribed by
8 this chapter or any other law affecting facility patients if the
9 commission reasonably believes the violation or threatened
10 violation creates a threat to the health and safety of a patient.

11 (b) A district court, on petition of the commission, may by
12 injunction:

13 (1) prohibit a person from violating the standards or
14 licensing requirements prescribed by this chapter;

15 (2) restrain or prevent the establishment, conduct,
16 management, or operation of an inpatient rehabilitation facility
17 without a license issued under this chapter; or

18 (3) grant the injunctive relief warranted by the facts
19 on a finding by the court that a person is violating or threatening
20 to violate the standards or licensing requirements prescribed by
21 this chapter.

22 (c) The attorney general, on the commission's request,
23 shall bring and conduct in the name of this state an action
24 authorized by this section.

25 (d) An action for a temporary restraining order or other
26 injunctive relief must be brought in the county in which the alleged
27 violation occurs or is threatened to occur.

1 Sec. 260E.0304. LICENSE REQUIREMENT; CRIMINAL PENALTY. (a)

2 A person commits an offense if the person violates Section
3 260E.0201.

4 (b) An offense under this section is punishable by a fine of
5 not more than \$1,000 for the first offense and not more than \$500
6 for each subsequent offense.

7 (c) Each day of a continuing violation after conviction
8 constitutes a separate offense.

9 Sec. 260E.0305. CIVIL PENALTY. (a) In this section,
10 "affiliate" means:

11 (1) with respect to a partnership other than a limited
12 partnership, each partner of the partnership;

13 (2) with respect to a corporation:

14 (A) an officer;

15 (B) a director;

16 (C) a stockholder who owns, holds, or has the
17 power to vote at least 10 percent of any class of securities issued
18 by the corporation, regardless of whether the power is of record or
19 beneficial; and

20 (D) a controlling individual;

21 (3) with respect to an individual:

22 (A) each partnership and each partner in the
23 partnership in which the individual or any other affiliate of the
24 individual is a partner; and

25 (B) each corporation or other business entity in
26 which the individual or another affiliate of the individual is:

27 (i) an officer;

1 (ii) a director;

2 (iii) a stockholder who owns, holds, or has
3 the power to vote at least 10 percent of any class of securities
4 issued by the corporation, regardless of whether the power is of
5 record or beneficial; and

6 (iv) a controlling individual;

7 (4) with respect to a limited partnership:

8 (A) a general partner; and

9 (B) a limited partner who is a controlling
10 individual;

11 (5) with respect to a limited liability company:

12 (A) an owner who is a manager as described by the
13 Texas Limited Liability Company Law, as described by Section
14 1.008(e), Business Organizations Code; and

15 (B) each owner who is a controlling individual;
16 and

17 (6) with respect to any other business entity, a
18 controlling individual.

19 (b) A person who violates or causes a violation of this
20 chapter or a rule adopted under this chapter is liable for a civil
21 penalty of not less than \$1,000 or more than \$20,000 for each act of
22 violation if the commission determines the violation threatens the
23 health and safety of a patient.

24 (c) In determining the amount of a penalty to be awarded
25 under this section, the trier of fact shall consider:

26 (1) the seriousness of the violation;

27 (2) the history of violations committed by the person

1 or the person's affiliate, employee, or controlling person;

2 (3) the amount necessary to deter future violations;

3 (4) the efforts made to correct the violation;

4 (5) any misrepresentation made to the commission or to
5 another person regarding:

6 (A) the quality of services rendered or to be
7 rendered to patients;

8 (B) the compliance history of the inpatient
9 rehabilitation facility or any facilities owned or controlled by an
10 owner or controlling person of the facility; or

11 (C) the identity of an owner or controlling
12 person of the facility;

13 (6) the culpability of the person who committed the
14 violation; and

15 (7) any other matter that should, as a matter of
16 justice or equity, be considered.

17 (d) Each day of a continuing violation constitutes a
18 separate ground for recovery under this section.

19 (e) Any party to an action brought under this section may
20 request a jury.

21 (f) If a person who is liable under this section fails to pay
22 any amount the person is obligated to pay under this section, this
23 state may seek satisfaction from any owner, other controlling
24 person, or affiliate of the person found liable. The owner, other
25 controlling person, or affiliate may be found liable in the same
26 action or in another action on a showing by this state that the
27 amount to be paid has not been paid or otherwise legally discharged.

1 The executive commissioner by rule may establish a method for
2 satisfying an obligation imposed under this section from an
3 insurance policy, letter of credit, or other contingency fund.

4 (g) On the commission's request, the attorney general may
5 bring an action in a district court to collect a civil penalty under
6 this section. The attorney general may recover reasonable expenses
7 incurred in bringing an action under this section, including court
8 costs, reasonable attorney's fees, investigative costs, witness
9 fees, and deposition costs.

10 (h) A payment submitted to satisfy an obligation under this
11 section is not an allowable cost for reimbursement under Medicaid.

12 (i) A civil penalty awarded under this section constitutes a
13 fine, penalty, or forfeiture payable to and for the benefit of a
14 government unit and is not compensation for actual pecuniary loss.

15 Sec. 260E.0306. ADMINISTRATIVE PENALTY. (a) The
16 commission may assess an administrative penalty against a person
17 who:

18 (1) violates this chapter or a rule, standard, or
19 order adopted or license issued under this chapter;

20 (2) makes a false statement, that the person knows or
21 should know is false, of a material fact:

22 (A) on an application for an initial license or
23 license renewal or in an attachment to the application; or

24 (B) with respect to a matter under investigation
25 by the commission;

26 (3) refuses to allow a representative of the
27 commission to inspect:

1 (A) a book, record, or file required to be
2 maintained by an inpatient rehabilitation facility; or

3 (B) any portion of the premises of a facility;

4 (4) wilfully interferes with the work of a
5 representative of the commission or the enforcement of this
6 chapter;

7 (5) wilfully interferes with a representative of the
8 commission preserving evidence of a violation of this chapter or a
9 rule, standard, or order adopted or license issued under this
10 chapter;

11 (6) fails to pay a penalty assessed by the commission
12 under this chapter not later than the 10th day after the date the
13 assessment of the penalty becomes final; or

14 (7) fails to notify the commission of a change of
15 ownership before the effective date of the change of ownership.

16 (b) Except as provided by Subsection (f) and Section
17 260E.0308(d), the penalty may not exceed \$10,000 a day for each
18 violation.

19 (c) Each day of a continuing violation constitutes a
20 separate violation.

21 (d) The executive commissioner shall establish gradations
22 of penalties in accordance with the relative seriousness of the
23 violation.

24 (e) In determining the amount of a penalty, the commission
25 shall consider any matter that justice may require, including:

26 (1) the gradations of penalties established under
27 Subsection (d);

1 (2) the seriousness of the violation, including the
2 nature, circumstances, extent, and gravity of the prohibited act
3 and the hazard or potential hazard created by the act to the health
4 or safety of the public;

5 (3) the history of previous violations;

6 (4) deterrence of future violations; and

7 (5) efforts to correct the violation.

8 (f) The penalty for a violation of Section 260E.0314(c) may
9 not exceed \$1,000 a day for each violation.

10 (g) The persons against whom an administrative penalty may
11 be assessed under Subsection (a) include:

12 (1) an applicant for a license under this chapter;

13 (2) a license holder;

14 (3) a partner, officer, director, or managing employee
15 of a license holder or applicant; and

16 (4) a controlling person.

17 (h) A penalty assessed under Subsection (a)(6) is in
18 addition to the penalty previously assessed and not timely paid.

19 (i) The commission shall develop and use a system to record
20 and track the scope and severity of each violation of this chapter
21 or a rule, standard, or order adopted under this chapter for the
22 purpose of assessing an administrative penalty for the violation or
23 taking some other enforcement action against the appropriate
24 inpatient rehabilitation facility to deter future violations. The
25 system:

26 (1) must be comparable to the system used by the
27 Centers for Medicare and Medicaid Services to categorize the scope

1 and severity of violations for a facility; and

2 (2) may be modified, as appropriate, to reflect
3 changes in industry practice or changes made to the system used by
4 the Centers for Medicare and Medicaid Services.

5 Sec. 260E.0307. VIOLATION OF LAW RELATING TO ADVANCE
6 DIRECTIVES. (a) The commission shall assess an administrative
7 penalty under this subchapter against an inpatient rehabilitation
8 facility that violates Section 166.004.

9 (b) Notwithstanding Sections 260E.0305(b) and (c):

10 (1) a penalty assessed in accordance with this section
11 must be \$500; and

12 (2) a separate penalty may not be assessed for a
13 separate day of a continuing violation.

14 (c) Section 260E.0308 does not apply to a penalty assessed
15 in accordance with this section.

16 Sec. 260E.0308. RIGHT TO CORRECT. (a) In this section:

17 (1) "Actual harm" means a negative outcome that
18 compromises a patient's physical, mental, or emotional well-being.

19 (2) "Immediate threat to the health or safety of a
20 patient" means a situation that causes, or is likely to cause,
21 serious injury, harm, or impairment to or the death of a patient.

22 (3) "Pattern of violation" means repeated, but not
23 pervasive, failures of an inpatient rehabilitation facility to
24 comply with this chapter or a rule, standard, or order adopted under
25 this chapter that:

26 (A) result in a violation; and

27 (B) are found throughout the services provided by

1 the facility or that affect or involve the same patients or facility
2 employees.

3 (4) "Widespread in scope" means a violation of this
4 chapter or a rule, standard, or order adopted under this chapter
5 that:

6 (A) is pervasive throughout the services
7 provided by the inpatient rehabilitation facility; or

8 (B) represents a systemic failure by the facility
9 affecting or having the potential to affect a large portion of or
10 all of the facility patients.

11 (b) The commission may not collect an administrative
12 penalty against an inpatient rehabilitation facility under this
13 subchapter if, not later than the 45th day after the date the
14 facility receives notice under Section 260E.0309(c), the facility
15 corrects the violation.

16 (c) Subsection (b) does not apply:

17 (1) to a violation that the commission determines:

18 (A) represents a pattern of violation that
19 results in actual harm;

20 (B) is widespread in scope and results in actual
21 harm;

22 (C) is widespread in scope, constitutes a
23 potential for actual harm, and relates to:

24 (i) patients' rights;

25 (ii) treatment of patients;

26 (iii) patient behavior and inpatient
27 rehabilitation facility practices;

(iv) quality of care;
(v) medication errors;
(vi) standard menus and nutritional
adequacy;

(vii) physician visits;
(viii) infection control;
(ix) life safety from fire; or
(x) emergency preparedness and response;

(D) constitutes an immediate threat to the health
or safety of a patient; or

(E) substantially limits the facility's capacity
to provide care;

(2) to a violation described by Section
260E.0306(a)(2), (3), (4), (5), (6), or (7);

(3) to a violation of Section 260A.014 or 260A.015; or
(4) to a second or subsequent violation of Section
326.002 that occurs before the second anniversary of the date of the
first violation.

(d) An inpatient rehabilitation facility that corrects a
violation under Subsection (b) must maintain the correction. If
the facility fails to maintain the correction until at least the
first anniversary of the correction date, the commission may assess
an administrative penalty under this subchapter for the subsequent
violation. A penalty assessed under this subsection shall be equal
to three times the amount of the penalty assessed but not collected
under Subsection (b). The commission is not required to provide the
facility an opportunity to correct the subsequent violation under

1 this section.

2 Sec. 260E.0309. REPORT RECOMMENDING ADMINISTRATIVE
3 PENALTY. (a) The commission may issue a preliminary report stating
4 the facts on which the commission concludes that a violation of this
5 chapter or a rule, standard, or order adopted or license issued
6 under this chapter has occurred if the commission has:

7 (1) examined the possible violation and facts
8 surrounding the possible violation; and

9 (2) concluded that a violation has occurred.

10 (b) The report may recommend a penalty under Section
11 260E.0311 and the amount of the penalty.

12 (c) Not later than the 10th day after the date on which the
13 report is issued, the commission shall give written notice of the
14 report to the person charged with the violation. The notice must
15 include:

16 (1) a brief summary of the charges;

17 (2) a statement of the recommended penalty amount;

18 (3) a statement of whether the violation is subject to
19 correction under Section 260E.0308 and, if the violation is subject
20 to correction under that section, a statement of:

21 (A) the date on which the inpatient
22 rehabilitation facility must file with the commission a plan of
23 correction to be approved by the commission; and

24 (B) the date on which the plan of correction must
25 be completed to avoid assessment of the penalty; and

26 (4) a statement that the person charged has a right to
27 a hearing on the occurrence of the violation, the amount of the

1 penalty, or both.

2 (d) Not later than the 20th day after the date on which the
3 notice under Subsection (c) is sent, the person charged may:

4 (1) provide to the commission written consent to the
5 commission's report, including the recommended penalty;

6 (2) submit a written request for a hearing; or

7 (3) if the violation is subject to correction under
8 Section 260E.0308, submit a plan of correction to the commission
9 for approval.

10 (e) If the violation is subject to correction under Section
11 260E.0308 and the person reports to the commission that the
12 violation has been corrected, the commission shall inspect the
13 correction or take another step necessary to confirm the violation
14 has been corrected and shall notify the person that:

15 (1) the correction is satisfactory and that a penalty
16 is not assessed; or

17 (2) the correction is not satisfactory and that a
18 penalty is recommended.

19 (f) Not later than the 20th day after the date on which a
20 notice under Subsection (e)(2) is sent, the person charged may:

21 (1) provide to the commission written consent to the
22 commission's report, including the recommended penalty; or

23 (2) submit a written request for a hearing.

24 (g) If the person charged with the violation consents to the
25 administrative penalty the commission recommends, does not timely
26 respond to a notice sent under Subsection (c) or (e), or fails to
27 correct the violation to the commission's satisfaction, the

1 commission shall assess the recommended administrative penalty.

2 (h) If the commission assesses the recommended penalty, the
3 commission shall give written notice to the person charged of the
4 decision and the person shall pay the penalty.

5 Sec. 260E.0310. HEARINGS ON ADMINISTRATIVE PENALTIES. (a)
6 An administrative law judge of the State Office of Administrative
7 Hearings shall order a hearing and the commission shall give notice
8 of the hearing if a person charged under Section 260E.0309(c)
9 requests a hearing.

10 (b) The hearing must be held before an administrative law
11 judge.

12 (c) The administrative law judge shall make findings of fact
13 and conclusions of law regarding the occurrence of a violation of
14 this chapter or a rule or order adopted or license issued under this
15 chapter.

16 (d) Based on the findings of fact and conclusions of law,
17 the administrative law judge by order shall find:

18 (1) a violation has occurred and assess an
19 administrative penalty; or

20 (2) a violation has not occurred.

21 (e) Proceedings under this section are subject to Chapter
22 2001, Government Code.

23 Sec. 260E.0311. NOTICE AND PAYMENT OF ADMINISTRATIVE
24 PENALTY; INTEREST; REFUND. (a) The commission shall provide
25 notice of the decision taken under Section 260E.0310(d) to the
26 person charged. If the commission determines a violation has
27 occurred and assesses an administrative penalty, the commission

1 shall provide to the person charged written notice of:

2 (1) the determination;

3 (2) the amount of the penalty;

4 (3) the rate of interest payable with respect to the
5 penalty and the date on which interest begins to accrue;

6 (4) whether payment of the penalty or other action
7 under Section 260E.0313 is required; and

8 (5) the person's right to judicial review of the order.

9 (b) Not later than the 30th day after the date on which the
10 commission's order becomes final, the person charged with the
11 penalty shall:

12 (1) pay the full amount of the penalty; or

13 (2) file a petition for judicial review contesting the
14 occurrence of the violation, the amount of the penalty, the failure
15 to correct the violation to the commission's satisfaction, or all
16 of the above.

17 (c) Notwithstanding Subsection (b), the commission may
18 permit the person to pay the penalty in installments or may require
19 the person to use the amount of the penalty under the commission's
20 supervision in accordance with Section 260E.0313.

21 (d) If the person does not pay the penalty within the 30-day
22 period:

23 (1) the penalty is subject to interest; and

24 (2) the commission may refer the matter to the
25 attorney general for collection of the penalty and interest.

26 (e) If a penalty is reduced or not assessed, the commission
27 shall:

1 (1) remit to the person charged the appropriate amount
2 of any penalty payment plus accrued interest; or

3 (2) execute a release of the supersedeas bond if one
4 has been posted.

5 (f) Accrued interest on amounts remitted by the commission
6 under Subsection (e)(1) must be paid:

7 (1) at a rate equal to the rate charged on loans to
8 depository institutions by the New York Federal Reserve Bank; and

9 (2) for the period beginning on the date the penalty is
10 paid under Subsection (b) and ending on the date the penalty is
11 remitted.

12 (g) Interest under Subsection (d) must be paid:

13 (1) at a rate equal to the rate charged on loans to
14 depository institutions by the New York Federal Reserve Bank; and

15 (2) for the period beginning on the date the notice of
16 the commission's order is received by the person and ending on the
17 date the penalty is paid.

18 Sec. 260E.0312. APPLICATION OF OTHER LAW. The commission
19 may not assess more than one monetary penalty under this chapter and
20 Chapter 32, Human Resources Code, for a violation arising out of the
21 same act or failure to act, except as provided by Section
22 260E.0308(d). The commission may assess the greater of a monetary
23 penalty under this chapter or a monetary penalty under Chapter 32,
24 Human Resources Code, for the same act or failure to act.

25 Sec. 260E.0313. AMELIORATION OF VIOLATION. (a) In this
26 section, "immediate jeopardy to health and safety" means a
27 situation in which immediate corrective action is necessary because

1 an inpatient rehabilitation facility's noncompliance with one or
2 more requirements has caused, or is likely to cause, serious
3 injury, harm, impairment, or death to a patient receiving care in
4 the facility.

5 (b) In lieu of demanding payment of an administrative
6 penalty assessed under Section 260E.0306, the commission may, in
7 accordance with this section, allow the person to use, under the
8 commission's supervision, any portion of the penalty to ameliorate
9 the violation or to improve services, other than administrative
10 services, in the inpatient rehabilitation facility affected by the
11 violation.

12 (c) The commission shall offer amelioration to a person for
13 a charged violation if the commission determines that the violation
14 does not constitute immediate jeopardy to the health and safety of a
15 facility patient.

16 (d) The commission may not offer amelioration to a person
17 if:

18 (1) the person has been charged with a violation that
19 is subject to correction under Section 260E.0308; or

20 (2) the commission determines the charged violation
21 constitutes immediate jeopardy to the health and safety of an
22 inpatient rehabilitation facility patient.

23 (e) The commission shall offer amelioration to a person
24 under this section not later than the 10th day after the date the
25 person receives from the commission a final notice of assessment of
26 administrative penalty that is sent to the person after an informal
27 dispute resolution process but before an administrative hearing

1 under Section 260E.0310.

2 (f) A person to whom the commission offers amelioration
3 shall file a plan for amelioration not later than the 45th day after
4 the date the person receives the amelioration offer. In submitting
5 the plan, the person must agree to waive the person's right to an
6 administrative hearing under Section 260E.0310 if the commission
7 approves the plan.

8 (g) At a minimum, a plan for amelioration must:

9 (1) propose changes to the management or operation of
10 the inpatient rehabilitation facility that will improve services to
11 or quality of care of facility patients;

12 (2) identify, through measurable outcomes, the ways in
13 which and the extent to which the proposed changes will improve
14 services to or quality of care of facility patients;

15 (3) establish clear goals to be achieved through the
16 proposed changes;

17 (4) establish a timeline for implementing the proposed
18 changes; and

19 (5) identify specific actions necessary to implement
20 the proposed changes.

21 (h) A plan for amelioration may include proposed changes to:

22 (1) improve staff recruitment and retention;

23 (2) offer or improve rehabilitation services for
24 patients; and

25 (3) improve the overall quality of care for patients.

26 (i) The commission may require an amelioration plan to
27 propose changes that would result in conditions exceeding the

1 requirements of this chapter or the rules adopted under this
2 chapter.

3 (j) The commission shall approve or deny an amelioration
4 plan not later than the 45th day after the date the commission
5 receives the plan. On approval of a person's plan, the commission
6 shall deny a pending request for a hearing submitted by the person
7 under Section 260E.0309(d).

8 (k) The commission may not offer amelioration to a person:

9 (1) more than three times in a two-year period; or

10 (2) more than one time in a two-year period for the
11 same or similar violation.

12 Sec. 260E.0314. OTHER REMEDIES. (a) If the commission
13 finds that an inpatient rehabilitation facility has committed an
14 act for which a civil penalty may be imposed under Section
15 260E.0305, the commission may, as appropriate under the
16 circumstances, order the facility to immediately suspend
17 admissions.

18 (b) A suspension of admissions ordered under Subsection (a)
19 is effective on the date a representative of the inpatient
20 rehabilitation facility receives notice of the order and of the
21 manner in which the order may be appealed. Not later than the 14th
22 day after the date the suspension becomes effective, the commission
23 must provide an opportunity for a hearing with respect to an appeal
24 of the order.

25 (c) During the period that an inpatient rehabilitation
26 facility is ordered to suspend admissions, the facility shall post
27 a notice of the suspension on all doors providing ingress to and

1 egress from the facility. The notice must be posted in the form the
2 commission requires.

3 (d) A person commits an offense if the person knowingly:
4 (1) violates Subsection (c); or
5 (2) removes a notice posted under Subsection (c)
6 before the inpatient rehabilitation facility is allowed to admit
7 patients.

8 (e) An offense under Subsection (d) is a Class C
9 misdemeanor.

10 (f) A court having jurisdiction of a judicial review of the
11 matter may not order arbitration, whether on motion of any party or
12 on the court's own motion, to resolve a dispute involving an order
13 suspending admissions under this section or the conduct with
14 respect to which the order suspending admissions is sought.

15 SECTION 6. (a) As soon as practicable after the effective
16 date of this Act but not later than January 1, 2026, the executive
17 commissioner of the Health and Human Services Commission shall
18 adopt rules as required by this Act.

19 (b) Notwithstanding Chapter 260E, Health and Safety Code,
20 as added by this Act, a person is not required to hold a license
21 under that chapter until September 1, 2026.

22 SECTION 7. This Act takes effect September 1, 2025.