

## **BILL ANALYSIS**

C.S.S.B. 204  
By: Hinojosa  
Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Legislature created the Department of Aging and Disability Services (DADS) in 2003 as the State's single long-term care agency. DADS directly provides, or contracts for, long-term care services for people with disabilities and the aging. The agency also regulates a range of providers serving these populations in facilities or home settings to ensure individuals' health and safety. As a result of its review of DADS, the Sunset Advisory Commission recommended several statutory modifications that are contained in this legislation.

### **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 SECTIONS 2, 3, 5, 6, 8, 9, 11, 14, 15, 34, 39, and 41 of this bill.

### **ANALYSIS**

S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, was signed by the Governor on April 2, 2015, giving effect to the bill on that date. C.S.S.B. 204 makes technical and conforming changes to align with the changes in law enacted by S.B. 219.

#### ***Changes adult day care name***

C.S.S.B. 204 changes references in statute from "adult day care" to "adult day services."

#### ***Requires the Department of Aging and Disability Services (DADS) to ensure progressive sanctions for serious or repeated violations by long-term care providers***

C.S.S.B. 204 requires the executive commissioner of the Health and Human Services Commission (HHSC) to create by rule matrices of progressive sanctions that DADS must use to assess penalty amounts and impose disciplinary actions for violations committed by home health agencies, nursing homes, assisted living facilities, intermediate care facilities for people with intellectual disabilities (ICFs), and adult day services facilities. The matrices must provide for increasing amounts of administrative penalties based on type, frequency, and seriousness of violations, and must provide guidance for determining appropriate penalties to deter future violations. The matrices must also provide for imposing stronger sanctions, including license suspension or revocation, for more serious or repeated violations to deter future violations. The matrices must describe appropriate timeframes to be used in determining whether a provider has committed repeated violations. For home health agencies, the matrix must provide for imposing

lesser sanctions for lesser violations.

C.S.S.B. 204 requires the executive commissioner to solicit input from stakeholders before publishing proposed rules regarding the matrices, and requires the executive commissioner to adopt the matrices by rule not later than September 1, 2016.

***Increases administrative penalty amounts***

C.S.S.B. 204 increases the maximum penalty DADS may assess against a home health agency from \$1,000 for each violation to \$5,000 for each violation. The bill increases the maximum penalty DADS may assess against an assisted living facility from \$1,000 to \$5,000 for each violation, adds that each day a violation occurs or continues after DADS provides written notification of the violation is a separate violation for purposes of imposing a penalty, and specifies that any days of violation that occurred on or before the date DADS provided notification is considered a single violation. The bill removes the cap on the total amount of administrative penalties DADS may assess for ICFs that commit a violation that continues on separate days.

***Limits “right to correct” provisions to minor violations***

C.S.S.B. 204 requires the executive commissioner of HHSC to define in rule the types of minor violations providers may correct before DADS imposes a penalty on home health agencies, nursing homes, assisted living facilities, ICFs, and adult day services facilities. The bill requires the executive commissioner to ensure that all other violations are not subject to a right to correct. The bill removes from statute language specifying the serious violations for which DADS may assess a penalty without providing a reasonable time period to correct.

***Requires the executive commissioner of HHSC to revoke the license of a nursing home found to have three or more serious violations related to the abuse or neglect of a resident in a two-year period***

C.S.S.B. 204 requires the executive commissioner to revoke the license of a nursing home when the home commits three violations within two years that constitute an immediate threat to health and safety related to the abuse or neglect of a resident, and each of the violations is reported in connection with a separate survey, inspection, or investigation visit that occurred on separate entrance and exit dates. The bill specifies the circumstances under which the executive commissioner may not revoke a license when a nursing home commits three violations within two years that constitute an immediate threat to health and safety related to the abuse or neglect of a resident. The bill adds definitions of “abuse,” “immediate threat to health and safety,” and “neglect” for purposes of these provisions.

C.S.S.B. 204 also authorizes the executive commissioner to stay a license revocation described above in certain circumstances, and requires the executive commissioner to follow negotiated rulemaking procedures when establishing criteria in rules for staying a revocation. The bill requires the criteria to permit the executive commissioner to stay a license revocation for a facility for which DADS has deployed a rapid response team, if the facility has cooperated with the team and demonstrated improvement in the quality of care.

C.S.S.B. 204 authorizes DADS to request the appointment of a trustee to operate the nursing home, help the facility obtain a new operator, or assist with the relocation of the residents to another facility in the case of a license revocation described above.

C.S.S.B. 204 establishes the intent of the Legislature to establish a ceiling or maximum number of violations related to the abuse and neglect of a resident that a facility can commit before the executive commissioner is required to revoke the facility’s license, and establishes that these changes are not intended to limit or diminish DADS’ permissive authority to revoke a license

under Chapter 242, Health and Safety Code. The bill specifies that Sections 242.061(a-2) and (a-3), Health and Safety Code, as added by the bill, take effect September 1, 2016, and apply only to violations committed on or after September 1, 2016.

***Amends quality-of-care monitoring and rapid response teams for long-term care facilities***

C.S.S.B. 204 amends provisions for quality-of-care monitoring visits to require visits for long-term care facilities identified as medium risk. The bill also authorizes a long-term care facility to request a monitoring visit. The bill amends provisions for quality-of-care monitoring assessments to require quality-of-care monitors to assess conditions identified through the facility's quality measure reports based on Minimum Data Set Resident Assessments. The bill requires DADS to schedule a follow-up visit not later than the 45th day after the date of an initial monitoring visit. The bill adds the long-term care facility administrator to the list of those who must be notified immediately of conditions observed by the quality-of-care monitor that create an immediate threat to the health or safety of a resident.

C.S.S.B. 204 amends provisions for rapid response teams to specify that a team can visit a long-term care facility that is identified as high risk or a nursing home that has committed three violations within two years that constitute an immediate threat to health and safety related to the abuse or neglect of a resident. The bill requires a long-term care facility to cooperate with a rapid response team. The bill adds definitions of "abuse," "immediate threat to health and safety," and "neglect," for purposes of these provisions.

***Amends the informal dispute resolution process for nursing homes***

C.S.S.B. 204 requires HHSC to contract with an appropriate disinterested person who is a nonprofit organization as part of the informal dispute resolution process for nursing homes to adjudicate disputes between nursing homes and DADS concerning a statement of violations prepared by DADS in connection with a survey conducted by DADS. The bill specifies that Section 2009.053 of the Government Code regarding alternative dispute resolution for use by government bodies does not apply to the selection of an appropriate disinterested person. The bill requires the executive commissioner to adopt rules as soon as practicable after the effective date of the bill to implement the new process. The bill also requires DADS and HHSC, as appropriate and as soon as practicable after the effective date of the bill, to revise or enter into a memorandum of understanding as required by a federal agency that is necessary to implement the new process.

***Amends the informal dispute resolution process for assisted living facilities***

C.S.S.B. 204 removes the requirement that HHSC administer the informal dispute resolution process for disputes between assisted living facilities and DADS regarding violations.

***Requires DADS to expand crisis intervention teams***

C.S.S.B. 204 requires DADS to evaluate the effectiveness of various models of crisis intervention teams that are funded under a federal waiver and operated by a local intellectual and developmental disability (IDD) authority. The bill defines "crisis intervention team" as a team of individuals specially trained to provide services and support to persons with IDD who have behavioral health needs and who are at risk of institutionalization. The bill requires DADS, not later than March 1, 2016, to select one or more models for crisis intervention teams that DADS determines best provides comprehensive, cost-effective support for implementation. The bill requires DADS to determine the areas in the state in which local IDD authorities do not operate crisis intervention teams. Subject to available funding, the bill requires DADS to develop a statewide system of locally managed crisis teams by expanding existing teams to reach other service areas or implementing new teams in accordance with a model selected for implementation.

***Establishes the State Supported Living Center Restructuring Commission***

C.S.S.B. 204 establishes a temporary subchapter in the Health and Safety Code set to expire September 1, 2025, regarding state supported living center restructuring and closures. The bill establishes the eight-member State Supported Living Center (SSLC) Restructuring Commission and requires the Governor to appoint five individuals to the Commission by September 1, 2015. The bill requires the head or designee of HHSC, the Texas Facilities Commission, and the General Land Office to serve as the remaining three non-voting ex officio members to provide relevant expertise. The bill also establishes conflict of interest criteria for Commission members.

C.S.S.B. 204 requires the Restructuring Commission to evaluate each SSLC to determine whether closure of the center is recommended to maintain only the number of centers necessary to meet the level of need in the state. The bill specifies 11 criteria the Restructuring Commission must consider in its evaluation and also allows the Restructuring Commission to add its own criteria. To solicit input during the evaluation process, the Restructuring Commission must hold public hearings throughout the state in a manner that accommodates people with disabilities and their families. The bill requires the Restructuring Commission to report to the Governor and the Legislature its evaluation of each SSLC and, if applicable, proposal for the closure of certain centers, by December 1, 2016. The bill requires the 85th Legislature to consider legislation proposing closure of any centers recommended for closure and prohibits amendments to the legislation. If the Legislature enacts law to close a center, the bill requires DADS to close each SSLC approved by the Legislature for closure by August 31, 2025. The bill abolishes the Restructuring Commission on January 1, 2017, and the section establishing the Commission also expires on that date.

***Requires DADS to close the Austin State Supported Living Center by August 2017***

C.S.S.B. 204 requires DADS to establish a closure plan for the Austin State Supported Living Center and close the center by August 31, 2017. The bill requires the closure plan to provide for the transition of residents to the community or another SSLC. The bill provides that all net proceeds from the sale or lease of the Austin SSLC may only be appropriated for services for people with IDD including those with a dual diagnosis of IDD and mental illness. The bill allows DADS to award one-time retention bonuses to certain eligible staff who agree to continue working at the Austin SSLC until the center is closed. The bill requires DADS to evaluate the closure process not later than August 31, 2018, including how well the closure plan worked, and, if appropriate, establish policies for improving the closure process for future closures of other SSLCs. The bill specifies that the section providing for closure of the Austin SSLC expires September 1, 2018.

***Establishes fees in rule for SSLC services provided to community clients***

C.S.S.B. 204 requires the executive commissioner of HHSC to establish by rule a list of services an SSLC may provide to qualified DADS' clients living in the community, and a schedule of fees the SSLC may charge for those services no later than September 1, 2016. The bill requires the executive commissioner to use the reimbursement rate for the applicable service under the Medicaid program.

***Requires improvements to DADS' long-term care consumer information website***

C.S.S.B. 204 requires DADS to include certain information on its website for consumers about long-term care providers including a rating indicating the quality of care provided; information concerning quality of care, as that information becomes available; staff turnover, as available; ratio of staff to residents; and the provider's regulatory performance, as available. The bill exempts assisted living facilities from having a rating. The bill requires DADS to immediately note on the website when a provider loses its Medicaid certification. The bill also requires

DADS to periodically solicit input on the content, usability, and accessibility of the website from consumers, consumer advocates, long-term care services providers, and the general public.

***Requires certain providers to annually report day habilitation services information***

C.S.S.B. 204 defines “day habilitation services” and “day habilitation services providers,” and requires each community-based IDD services provider and ICF program provider to annually report to DADS the following information: an estimate of the number of clients receiving day habilitation services for each month of that year; the physical address of each day habilitation services provider that provided those services; the services provided to those clients; and an estimate of monthly expenditures for the provision of those services. The bill requires DADS to maintain information on violations found at a day habilitation facility during a DADS inspection. The bill requires DADS to maintain information received from DFPS on abuse, neglect, or exploitation in day habilitation facilities.

***Requires the Department of Family and Protective Services to report annually on abuse, neglect, and exploitation investigations in day habilitation facilities***

C.S.S.B. 204 requires the Department of Family and Protective Services (DFPS) to track and report to DADS on the number of investigations of abuse, neglect, and exploitation at day habilitation facilities, and whether the investigations concluded the allegations were confirmed, unconfirmed, inconclusive, or unfounded. DFPS must provide this information annually. The bill clarifies that DFPS must continue to investigate a community-based IDD services or ICF program provider for any abuse, neglect, or exploitation of a person under the provider’s care.

***Establishes a day habilitation program advisory committee***

C.S.S.B. 204 requires DADS to establish an advisory committee to address the redesign and potential licensure or certification of day habilitation programs. The bill requires DADS to appoint members to the committee representing community-based waiver providers, day habilitation services providers, and advocates by September 1, 2015. The bill requires the committee to examine whether day habilitation service providers currently comply with recent federal guidelines that define the settings in which states may provide services in home and community-based waivers for people with IDD. The bill requires the committee to consider and make recommendations concerning issues relevant to the provision of day habilitation services, including appropriate funding for services; reimbursable settings and services; staff-to-client ratio requirements; safety requirements; and other required or applicable standards. The bill requires the committee to make its recommendations concerning the redesign of day habilitation services and the necessity for regulation, licensure, or certification of day habilitation services providers to the Governor and Legislature no later than September 1, 2016. The bill abolishes the advisory committee on December 31, 2016, and the section establishing the committee also expires on that date.

***Transfers aging and disability services to HHSC, contingent on DADS not being continued in other legislation***

In the event that DADS is not continued in other legislation, C.S.S.B. 204 transfers DADS’ administrative support services functions as determined by the executive commissioner, client services, and all functions of the Aging and Disability Services Council (Council) to HHSC by September 1, 2016. The bill transfers all remaining functions to HHSC by September 1, 2017, and clarifies that DADS’ powers and duties with respect to a function are not reduced or limited until the function is transferred to HHSC. The bill repeals numerous provisions in the Human Resources Code as the functions transfer, and specifies that implementation of a repealed provision ceases on the date all functions of DADS or the Council are transferred to HHSC, to the extent that DADS or the Council is responsible for the provision’s implementation. The bill establishes definitions of “administrative support services” and “function” for purposes of the

transfer. The bill also provides that the subchapter providing for the transfer of functions from DADS to HHSC expires on September 1, 2019. The bill specifies that the transfer provisions take effect September 1, 2015, if DADS is not continued in other legislation of the 84th Legislature, Regular Session.

C.S.S.B. 204 establishes that a reference to DADS in relation to a transferred function means HHSC or the division of HHSC performing the function after its transfer. The bill establishes that a reference to the Texas Department on Aging, Texas Department of Human Services, and the Texas Department of Mental Health and Mental Retardation, or to the chief executive officer or governing body of those agencies, in relation to a transferred function means HHSC or the division of HHSC performing the function after its transfer. The bill establishes that a reference to the commissioner in relation to a transferred function means the executive commissioner, the executive commissioner's designee, or the director of the HHSC division performing the function after its transfer. C.S.S.B. 204 establishes that a reference to the Council in relation to a transferred function means the executive commissioner or the executive commissioner's designee, as appropriate, and that a function previously performed by the Council is a function of that appropriate person.

C.S.S.B. 204 establishes that all of the following related to a function that is transferred also transfer: all obligations and contracts; all property and records in the custody of DADS or the Council; all funds appropriated by the Legislature and other money; all complaints, investigations, or contested cases that are pending before DADS or the commissioner, without change in status; and all necessary personnel, as determined by the executive commissioner of HHSC.

C.S.S.B. 204 also establishes that a rule, policy, or form adopted by or on behalf of DADS or the Council related to a function that is transferred becomes a rule, policy, or form of HHSC on transfer of the function. The rule, policy, or form remains in effect until changed by the executive commissioner or HHSC, or unless it conflicts with a rule, policy, or form of HHSC. The bill specifies that a license, permit, or certification in effect that was issued by DADS that relates to a transferred function is continued in effect as a license, permit, or certification of HHSC on transfer of the related function until the license, permit, or certification expires, is suspended or revoked, or otherwise becomes invalid.

C.S.S.B. 204 specifies that an action brought or proceeding commenced before the transfer date, including a contested case or a remand of an action or proceeding by a reviewing court, is governed by the laws and rules applicable to the action or proceeding before the transfer.

C.S.S.B. 204 establishes that Section 325.017 of the Government Code, procedure after termination, does not apply to DADS, and the bill also amends the DADS' sunset provision to no longer require expiration of Human Resources Code Chapter 161, DADS' enabling statute.

C.S.S.B. 204 requires HHSC as soon as appropriate to take appropriate action, and in a manner that minimizes disruption of services, to be designated as the state agency responsible under federal law for any state or federal program that is transferred from DADS to HHSC and for which federal law requires the designation of a responsible state agency.

#### ***Requires application for waiver***

C.S.S.B. 204 requires DADS or HHSC, as appropriate and as soon as possible after the effective date of the bill, to apply for any waiver or other authorization from a federal agency that is necessary to implement the bill, and specifies that DADS and HHSC may delay implementing the bill until the waiver or authorization is granted.

#### ***Repealers***

C.S.S.B. 204 repeals the following sections, including provisions as added or amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015.

*Effective upon passage of the bill or, if the bill does not receive the necessary vote, September 1, 2015*

Health and Safety Code

Section 247.051(b)

Human Resources Code

Section 101A.158

*Effective September 1, 2016*

Human Resources Code

Section 161.021

Section 161.022

Section 161.023

Section 161.024

Section 161.025

Section 161.026

Section 161.027

Section 161.028

Section 161.029

Section 161.030

*Effective September 1, 2017*

Human Resources Code

Section 161.002

Section 161.032

Section 161.051

Section 161.052

Section 161.053

Section 161.054

Section 161.055

Section 161.056

Section 161.0711

Section 161.0712

Section 161.072

### **EFFECTIVE DATE**

Except as otherwise provided, September 1, 2015.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 204 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

#### SENATE ENGROSSED

SECTION 1. Section 81.042(e), Health and Safety Code, is amended to read as follows:

(e) The following persons shall report to the local health authority or the department a suspected case of a reportable disease and all information known concerning the

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 81.042(e), Health and Safety Code, is amended to read as follows:

(e) The following persons shall report to the local health authority or the department a suspected case of a reportable disease and all information known concerning the

person who has or is suspected of having the disease if a report is not made as required by Subsections (a)-(d):

- (1) a professional registered nurse;
- (2) an administrator or director of a public or private temporary or permanent child-care facility;
- (3) an administrator or director of a nursing home, personal care home, adult respite care center, or day activity and health services program or facility [~~adult day care center~~];
- (4) an administrator of a home health agency;
- (5) an administrator or health official of a public or private institution of higher education;
- (6) an owner or manager of a restaurant, dairy, or other food handling or processing establishment or outlet;
- (7) a superintendent, manager, or health official of a public or private camp, home, or institution;
- (8) a parent, guardian, or householder;
- (9) a health professional;
- (10) an administrator or health official of a penal or correctional institution; or
- (11) emergency medical service personnel, a peace officer, or a firefighter.

SECTION 2. Subchapter A, Chapter 142, Health and Safety Code, is amended by adding Section 142.0125 to read as follows:

Sec. 142.0125. PROGRESSIVE SANCTIONS. (a) The executive commissioner by rule shall create a matrix of progressive sanctions that the department must use to assess penalty amounts and impose disciplinary actions under this chapter appropriately and fairly for a violation of a law, rule, standard, or order adopted or license issued under this chapter or for a violation of other law for which this chapter provides a sanction.

(b) The matrix of progressive sanctions adopted under this section must provide for increases in amounts of administrative penalties based on type, frequency, and seriousness of violations and must provide guidance for determining appropriate and graduated administrative penalties to assess under this chapter to deter future violations, including guidance on considering the factors listed in this chapter for determining the amount of a penalty.

person who has or is suspected of having the disease if a report is not made as required by Subsections (a)-(d):

- (1) a professional registered nurse;
- (2) an administrator or director of a public or private temporary or permanent child-care facility;
- (3) an administrator or director of a nursing home, personal care home, adult respite care center, or adult day services facility [~~day care center~~];
- (4) an administrator of a home health agency;
- (5) an administrator or health official of a public or private institution of higher education;
- (6) an owner or manager of a restaurant, dairy, or other food handling or processing establishment or outlet;
- (7) a superintendent, manager, or health official of a public or private camp, home, or institution;
- (8) a parent, guardian, or householder;
- (9) a health professional;
- (10) an administrator or health official of a penal or correctional institution; or
- (11) emergency medical service personnel, a peace officer, or a firefighter.

SECTION 2. Subchapter A, Chapter 142, Health and Safety Code, is amended by adding Section 142.0125 to read as follows:

Sec. 142.0125. PROGRESSIVE SANCTIONS. (a) The executive commissioner by rule shall create a matrix of progressive sanctions that the department must use to assess penalty amounts and impose disciplinary actions under this chapter appropriately and fairly for a violation of a law, rule, standard, or order adopted or license issued under this chapter or for a violation of other law for which this chapter provides a sanction.

(b) The matrix of progressive sanctions adopted under this section must provide for increases in amounts of administrative penalties based on type, frequency, and seriousness of violations and must provide guidance for determining appropriate and graduated administrative penalties to assess under this chapter to deter future violations, including guidance on considering the factors listed in this chapter for determining the amount of a penalty.



(c) The matrix of progressive sanctions adopted under this section must provide for imposing stronger sanctions, including license suspension or revocation, for more serious violations or for repeated violations as appropriate to deter future serious or repeated violations. The matrix of progressive sanctions must describe appropriate time frames to be used in determining whether a home and community support services agency has committed repeated violations or has engaged in a pattern of repeated violations, such as repeated violations found in consecutive regular inspections.

SECTION 3. Sections 142.017(b) and (j), Health and Safety Code, are amended.

SECTION 4. Section 164.003(5), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

- (5) "Mental health facility" means:
- (A) a "mental health facility" as defined by Section 571.003;
  - (B) a residential treatment facility, other than a mental health facility, in which persons are treated for emotional problems or disorders in a 24-hour supervised living environment; and
  - (C) a day activity and health services [an adult day care] facility as defined by Section 103.003, Human Resources Code.

SECTION 5. (a) It is the intent of the legislature that Section 242.061, Health and Safety Code, as amended by this section, establish a ceiling or maximum number of violations related to the abuse and neglect of

(b-1) The matrix of progressive sanctions adopted under this section must provide for imposing lesser sanctions for lesser violations, which may include violations that:

- (1) are technical, clerical, or de minimis in nature;
- (2) do not involve abuse, neglect, or exploitation of a client; and
- (3) do not cause injury or impairment to a client or cause the death of a client.

(c) The matrix of progressive sanctions adopted under this section must provide for imposing stronger sanctions, including license suspension or revocation, for more serious violations or for repeated violations as appropriate to deter future serious or repeated violations. The matrix of progressive sanctions must describe appropriate time frames to be used in determining whether a home and community support services agency has committed repeated violations or has engaged in a pattern of repeated violations, such as repeated violations found in consecutive regular inspections.

SECTION 3. Same as engrossed version.

SECTION 4. Section 164.003(5), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

- (5) "Mental health facility" means:
- (A) a "mental health facility" as defined by Section 571.003;
  - (B) a residential treatment facility, other than a mental health facility, in which persons are treated for emotional problems or disorders in a 24-hour supervised living environment; and
  - (C) an adult day services [day care] facility as defined by Section 103.003, Human Resources Code.

SECTION 5. (a) It is the intent of the legislature that Section 242.061, Health and Safety Code, as amended by this section, establish a ceiling or maximum number of violations related to the abuse and neglect of

a resident that a facility can commit before the Department of Aging and Disability Services is required to revoke the facility's license. The changes in law made by this section are not intended to limit or diminish the department's permissive authority to revoke a license under Chapter 242, Health and Safety Code.

(b) Section 242.061, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), (c-1), and (e) to read as follows:

(a) In this section:

(1) "Abuse" has the meaning assigned by Section 260A.001.

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

(3) "Neglect" has the meaning assigned by Section 260A.001.

(a-1) The department, after providing notice and opportunity for a hearing to the applicant or license holder, may deny, suspend, or revoke a license if the department finds that the applicant, the license holder, or any other person described by Section 242.032(d) has:

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

(2) committed any act described by Sections 242.066(a)(2)-(6); or

(3) failed to comply with Section 242.074.

(a-2) Except as provided by Subsection (a-3) or (e), the department shall revoke a license under Subsection (a-1) if the department finds that:

(1) the license holder has committed three violations described by Subsection (a-1), within a 24-month period, that constitute an immediate threat to health and safety related to the abuse or neglect of a resident; and

(2) each of the violations described by Subdivision (1) are reported in connection with separate surveys, inspections, or investigation visits.

(a-3) The department may not revoke a license under Subsection (a-2) due to a violation described by Subsection (a-2)(1),

a resident that a facility can commit before the executive commissioner is required to revoke the facility's license. The changes in law made by this section are not intended to limit or diminish the department's permissive authority to revoke a license under Chapter 242, Health and Safety Code.

(b) Section 242.061, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), (c-1), (e), and (e-1) to read as follows:

(a) In this section:

(1) "Abuse" has the meaning assigned by Section 260A.001.

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

(3) "Neglect" has the meaning assigned by Section 260A.001.

(a-1) The department, after providing notice and opportunity for a hearing to the applicant or license holder, may deny, suspend, or revoke a license if the department finds that the applicant, the license holder, or any other person described by Section 242.032(d) has:

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

(2) committed any act described by Sections 242.066(a)(2)-(6); or

(3) failed to comply with Section 242.074.

(a-2) Except as provided by Subsection (a-3) or (e-1), the executive commissioner shall revoke a license under Subsection (a-1) if the department finds that:

(1) the license holder has committed three violations described by Subsection (a-1), within a 24-month period, that constitute an immediate threat to health and safety related to the abuse or neglect of a resident; and

(2) each of the violations described by Subdivision (1) is reported in connection with a separate survey, inspection, or investigation visit that occurred on separate entrance and exit dates.

(a-3) The executive commissioner may not revoke a license under Subsection (a-2) due to a violation described by Subsection (a-

if:

(1) the violation is not included on the written list of violations left with the facility at the time of the initial exit conference under Section 242.0445(b) for a survey, inspection, or investigation;

(2) the violation is not included on the final statement of violations described by Section 242.0445; or

(3) the violation has been reviewed under the informal dispute resolution process established by Section 531.058, 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 resident.

(c-1) In the case of revocation of a license under Subsection (a-2), to ensure the health and safety of residents of the institution, the department may:

(1) request the appointment of a trustee to operate the institution under Subchapter D;

(2) obtain a new operator for the institution;  
or

(3) assist with the relocation of residents to another institution.

(e) The executive commissioner may waive a license revocation required by Subsection (a-2) if the executive commissioner determines that the waiver would not jeopardize the health and safety of the residents of the facility or place the residents at risk of abuse or neglect. The executive commissioner by rule shall establish criteria under which a waiver may be granted as provided by this subsection. The executive commissioner may provide a waiver for a veterans home, as defined by Section 164.002, Natural Resources Code, if the Veterans' Land Board contracts with a different entity to operate the veterans home than the entity that operated the home during the period in which the violations described by Subsection (a-2) occurred.

2)(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 242.0445(b) for a survey, inspection, or investigation;

(2) the violation is not included on the final statement of violations described by Section 242.0445; or

(3) the violation has been reviewed under the informal dispute resolution process established by Section 531.058, 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 resident.

(c-1) In the case of revocation of a license under Subsection (a-2), to ensure the health and safety of residents of the institution, the department may:

(1) request the appointment of a trustee to operate the institution under Subchapter D;

(2) assist with obtaining a new operator for the institution; or

(3) assist with the relocation of residents to another institution.

(e) The executive commissioner may stay a license revocation required by Subsection (a-2) if the executive commissioner determines that the stay would not jeopardize the health and safety of the residents of the facility or place the residents 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 permit the executive commissioner to stay a license revocation of a nursing facility for which the department 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.

(e-1) The executive commissioner may stay

a license revocation required by Subsection (a-2) for a veterans home, as defined by Section 164.002, Natural Resources Code, if the Veterans' Land Board contracts with a different entity to operate the veterans home than the entity that operated the home during the period in which the violations described by Subsection (a-2) occurred.

SECTION 6. Subchapter C, Chapter 242, Health and Safety Code, is amended.

SECTION 6. Same as engrossed version.

SECTION 7. Section 242.0615(a), Health and Safety Code, is amended.

SECTION 7. Same as engrossed version.

SECTION 8. Section 242.0665(b), Health and Safety Code, is amended.

SECTION 8. Same as engrossed version.

SECTION 9. Subchapter C, Chapter 247, Health and Safety Code, is amended.

SECTION 9. Same as engrossed version.

SECTION 10. Section 247.0451(b), Health and Safety Code, is amended to read as follows:

SECTION 10. Section 247.0451(b), Health and Safety Code, is amended to read as follows:

(b) Except as provided by Section 247.0452(c), the penalty may not exceed \$5,000 [~~\$1,000~~] for each violation. Each day a violation occurs or continues is a separate violation for purposes of imposing a penalty.

(b) Except as provided by Section 247.0452(c), the penalty may not exceed \$5,000 [~~\$1,000~~] for each violation. Each day a violation occurs or continues after the date the department provides written notification of the violation is considered a separate violation. The violation is considered a single violation for any days of violation that occurred on or before the date the department provides written notification of the violation.

SECTION 11. Section 247.0452(b), Health and Safety Code, is amended.

SECTION 11. Same as engrossed version.

SECTION 12. Section 247.051(a), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended.

SECTION 12. Same as engrossed version.

SECTION 13. Section 250.001(3), Health and Safety Code, as amended by S.B. No.

SECTION 13. Section 250.001(3), Health and Safety Code, as amended by S.B. No.

219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(3) "Facility" means:

(A) a nursing facility, custodial care home, or other institution licensed by the Department of Aging and Disability Services under Chapter 242;

(B) an assisted living facility licensed by the Department of Aging and Disability Services under Chapter 247;

(C) a home and community support services agency licensed under Chapter 142;

(D) a day activity and health services ~~[an adult day care]~~ facility licensed by the Department of Aging and Disability Services under Chapter 103, Human Resources Code;

(E) an ICF-IID licensed under Chapter 252;

(F) an adult foster care provider that contracts with the Department of Aging and Disability Services;

(G) a facility that provides mental health services and that is operated by or contracts with the Department of State Health Services;

(H) a local mental health authority designated under Section 533.035 or a local intellectual and developmental disability authority designated under Section 533.035;

(I) a person exempt from licensing under Section 142.003(a)(19);

(J) a special care facility licensed by the Department of State Health Services under Chapter 248;

(K) a mental health service unit of a hospital licensed under Chapter 241; or

(L) a prescribed pediatric extended care center licensed by the Department of Aging and Disability Services under Chapter 248A.

SECTION 14. Subchapter C, Chapter 252, Health and Safety Code, is amended.

SECTION 15. Section 252.065, Health and Safety Code, is amended.

SECTION 16. Section 255.003, Health and Safety Code, is amended.

219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(3) "Facility" means:

(A) a nursing facility, custodial care home, or other institution licensed by the Department of Aging and Disability Services under Chapter 242;

(B) an assisted living facility licensed by the Department of Aging and Disability Services under Chapter 247;

(C) a home and community support services agency licensed under Chapter 142;

(D) an adult day services ~~[care]~~ facility licensed by the Department of Aging and Disability Services under Chapter 103, Human Resources Code;

(E) an ICF-IID licensed under Chapter 252;

(F) an adult foster care provider that contracts with the Department of Aging and Disability Services;

(G) a facility that provides mental health services and that is operated by or contracts with the Department of State Health Services;

(H) a local mental health authority designated under Section 533.035 or a local intellectual and developmental disability authority designated under Section 533.035;

(I) a person exempt from licensing under Section 142.003(a)(19);

(J) a special care facility licensed by the Department of State Health Services under Chapter 248;

(K) a mental health service unit of a hospital licensed under Chapter 241; or

(L) a prescribed pediatric extended care center licensed by the Department of Aging and Disability Services under Chapter 248A.

SECTION 14. Same as engrossed version.

SECTION 15. Same as engrossed version.

SECTION 16. Same as engrossed version.

SECTION 17. Section 255.004, Health and Safety Code, is amended.

SECTION 18. Subchapter B, Chapter 533A, Health and Safety Code, as added by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Section 533A.044 to read as follows:  
Sec. 533A.044. CRISIS INTERVENTION TEAMS. (a) In this section, "crisis intervention team" means a team of individuals specially trained to provide services and support to persons with an intellectual or developmental disability who have behavioral health needs and who are at risk of institutionalization.  
(b) The department shall evaluate the effectiveness of various models of crisis intervention teams that are funded under a waiver under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315) and operated by a local intellectual and developmental disability authority.  
(c) Not later than March 1, 2016, the department shall select for implementation one or more models for crisis intervention teams the department determines best provide comprehensive, cost-effective support.  
(d) The department shall determine the areas in this state in which local intellectual and developmental disability authorities do not operate crisis intervention teams and, subject to available funding, shall implement in each area a team that operates in accordance with a model selected for implementation under this section.

SECTION 19. Chapter 555, Health and Safety Code, is amended by adding Subchapter F to read as follows:  
SUBCHAPTER F. STATE SUPPORTED LIVING CENTER RESTRUCTURING AND CLOSURES  
Sec. 555.201. STATE SUPPORTED LIVING CENTER RESTRUCTURING COMMISSION. (a) In this subchapter, "restructuring commission" means the state supported living center restructuring

SECTION 17. Same as engrossed version.

SECTION 18. Subchapter B, Chapter 533A, Health and Safety Code, as added by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended by adding Section 533A.044 to read as follows:  
Sec. 533A.044. CRISIS INTERVENTION TEAMS. (a) In this section, "crisis intervention team" means a team of individuals specially trained to provide services and support to persons with an intellectual or developmental disability who have behavioral health needs and who are at risk of institutionalization.  
(b) The department shall evaluate the effectiveness of various models of crisis intervention teams that are funded under a waiver under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315) and operated by a local intellectual and developmental disability authority.  
(c) Not later than March 1, 2016, the department shall select for implementation one or more models for crisis intervention teams the department determines best provide comprehensive, cost-effective support.  
(d) The department shall determine the areas in this state in which local intellectual and developmental disability authorities do not operate crisis intervention teams. Subject to available funding, the department shall develop a statewide system of locally managed crisis intervention teams by:  
(1) expanding existing teams to reach other local service areas; or  
(2) implementing new teams that operate in accordance with a model selected under Subsection (c).

SECTION 19. Chapter 555, Health and Safety Code, is amended by adding Subchapter F to read as follows:  
SUBCHAPTER F. STATE SUPPORTED LIVING CENTER RESTRUCTURING AND CLOSURES  
Sec. 555.201. STATE SUPPORTED LIVING CENTER RESTRUCTURING COMMISSION. (a) In this subchapter, "restructuring commission" means the state supported living center restructuring

commission.

(b) The restructuring commission consists of five members appointed by the governor and the following three nonvoting ex officio members:

(1) the executive commissioner or the executive commissioner's designee;

(2) the executive director of the Texas Facilities Commission or the executive director's designee; and

(3) the commissioner of the General Land Office or the commissioner's designee.

(c) The restructuring commission is established to evaluate each state supported living center in the state to determine whether closure of the center is recommended to maintain only the number of centers necessary to meet the level of need in the state. In evaluating each state supported living center, the restructuring commission shall consider:

(1) the quality of services provided by the center, including the center's most recent certification inspections and the center's ability to meet the minimum ICF-IID standards;

(2) the costs of operating the center;

(3) the center's compliance with the 2009 settlement agreement between the department and the United States Department of Justice regarding services provided to individuals with an intellectual or developmental disability in state-operated facilities;

(4) the availability of community service providers in the area served by the center;

(5) the specialty services provided at the center, including the ability of the center to serve alleged offenders or high-risk residents;

(6) the availability of employment opportunities for center employees if the center closes;

(7) any infrastructure deficiency costs relating to the center;

(8) the property value of, the market demand for, and any deed restrictions applicable to property and facilities of the center;

(9) whether closure of the center would adversely affect the geographic distribution of centers in the state;

(10) the availability and capacity of service providers and resources in the community capable of delivering the quality and level of

commission.

(b) The restructuring commission consists of five members appointed by the governor and the following three nonvoting ex officio members:

(1) the executive commissioner or the executive commissioner's designee;

(2) the executive director of the Texas Facilities Commission or the executive director's designee; and

(3) the commissioner of the General Land Office or the commissioner's designee.

(c) The restructuring commission is established to evaluate each state supported living center in the state to determine whether closure of the center is recommended to maintain only the number of centers necessary to meet the level of need in the state. In evaluating each state supported living center, the restructuring commission shall consider:

(1) the quality of services provided by the center, including the center's regulatory compliance and the center's ability to meet the minimum ICF-IID standards;

(2) the costs of operating the center;

(3) the center's compliance with the 2009 settlement agreement, as amended, between the department and the United States Department of Justice regarding services provided to individuals with an intellectual or developmental disability in state-operated facilities;

(4) the availability of community service providers in the area served by the center;

(5) the specialty services provided at the center, including the ability of the center to serve alleged offenders or high-risk residents;

(6) the availability of employment opportunities for center employees if the center closes;

(7) any infrastructure deficiency costs relating to the center;

(8) the property value of, the market demand for, and any deed restrictions applicable to property and facilities of the center;

(9) whether closure of the center would adversely affect the geographic distribution of centers in the state;

(10) the availability and capacity of service providers and resources in the community capable of delivering the quality and level of

care each resident of the center would require following the center's closure; and

(11) any other criteria the restructuring commission considers appropriate.

(d) Not later than December 1, 2016, the restructuring commission shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over intellectual and developmental disability issues a report detailing the restructuring commission's evaluation of each state supported living center and, if applicable, proposing the closure of certain centers.

(e) A member of the restructuring commission may not:

(1) have a direct or indirect interest in any contract or proposed contract with a licensed provider of ICF-IID services, or other provider of services to individuals with an intellectual or developmental disability;

(2) acquire a direct or indirect pecuniary interest in any provider of ICF-IID services, or other provider of services to individuals with an intellectual or developmental disability; or

(3) have a financial interest in the closure of a state supported living center.

care each resident of the center would require following the center's closure;

(11) closure costs; and

(12) any other criteria the restructuring commission considers appropriate.

(c-1) The restructuring commission shall hold public hearings throughout the state in a manner that accommodates individuals with disabilities and their families to solicit input during the evaluation process under Subsection (c).

(d) Not later than December 1, 2016, the restructuring commission shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over intellectual and developmental disability issues a report detailing the restructuring commission's evaluation of each state supported living center and, if applicable, proposing the closure of certain centers.

(e) A member of the restructuring commission may not:

(1) have a direct or indirect interest in any contract or proposed contract with a licensed provider of ICF-IID services, or other provider of services to individuals with an intellectual or developmental disability;

(2) acquire a direct or indirect pecuniary interest in any provider of ICF-IID services, or other provider of services to individuals with an intellectual or developmental disability;

(3) have a financial interest in the closure of a state supported living center;

(4) be an agent, paid consultant, officer, or employee of a state supported living center, state center, local authority, licensed provider of ICF-IID services, or other provider of services to individuals with an intellectual or developmental disability;

(5) have a financial interest in a state supported living center, state center, local authority, licensed provider of ICF-IID services, or other provider of services to individuals with an intellectual or developmental disability;

(6) be an officer, employee, or paid consultant of a trade association in the field of residential services for individuals with an intellectual or developmental disability;



(f) The restructuring commission is abolished and this section expires January 1, 2017.

Sec. 555.202. RECOMMENDED CLOSURES OF STATE SUPPORTED LIVING CENTERS.

(a) If the restructuring commission proposes the closure of one or more state supported living centers, the 85th Legislature shall consider legislation proposing the closure of the centers recommended for closure. In considering the proposed legislation described by this subsection, members of the legislature may not propose amendments to the legislation.

(b) If the legislation described by Subsection (a) is enacted and becomes law, the department shall ensure that each state supported living center approved by the legislature for closure under Subsection (a) is closed not later than August 31, 2025.

(c) This subchapter expires September 1, 2025.

Sec. 555.203. CLOSURE OF AUSTIN STATE SUPPORTED LIVING CENTER.

(a) The department shall establish a closure plan for the Austin State Supported Living Center. The plan must provide for closure of the facility and operations of the Austin State Supported Living Center not later than August 31, 2017.

(b) The closure plan must provide procedures to transition to the community each resident for whom:

(1) the resident's care team recommends a community placement;

(2) a community placement is available for the resident; and

(3) a community placement is the choice of the resident.

(c) The department may award one-time

(7) be a resident of a state supported living center; or

(8) be related within the second degree by affinity or consanguinity, as determined under Chapter 573, Government Code, to a person who is an officer, employee, paid consultant, or resident of a state supported living center, state center, local authority, licensed provider of ICF-IID services, or other provider of services to individuals with an intellectual or developmental disability.

(f) The restructuring commission is abolished and this section expires January 1, 2017.

Sec. 555.202. RECOMMENDED CLOSURES OF STATE SUPPORTED LIVING CENTERS.

(a) If the restructuring commission proposes the closure of one or more state supported living centers, the 85th Legislature shall consider legislation proposing the closure of the centers recommended for closure. In considering the proposed legislation described by this subsection, members of the legislature may not propose amendments to the legislation.

(b) If the legislation described by Subsection (a) is enacted and becomes law, the department shall ensure that each state supported living center approved by the legislature for closure under Subsection (a) is closed not later than August 31, 2025.

(c) This subchapter expires September 1, 2025.

Sec. 555.203. CLOSURE OF AUSTIN STATE SUPPORTED LIVING CENTER.

(a) The department shall establish a closure plan for the Austin State Supported Living Center. The plan must provide for closure of the facility and operations of the Austin State Supported Living Center not later than August 31, 2017.

(b) The closure plan must provide procedures to transition each resident of the Austin State Supported Living Center to the community or to another state supported living center, taking into consideration:

(1) whether the resident's care team recommends placement in the community;

(2) whether a community placement is available for the resident; and

(3) the resident's choice.

(c) The department may award one-time

retention bonuses to each direct support professional, qualified intellectual disability professional, social worker, and case manager who agrees to continue to provide services at the Austin State Supported Living Center until the center is closed.

(d) The proceeds from the closure, including from the sale or lease of facilities or other property, may be appropriated only for services for persons with an intellectual or developmental disability, including persons with a dual diagnosis of an intellectual or developmental disability and mental illness.

(e) Not later than August 31, 2018, the department shall evaluate the closure process, including how well the closure plan worked, and, if appropriate, establish policies for improving the closure process for future closures of other state supported living centers.

(f) This section expires September 1, 2018.

SECTION 20. Section 531.0318, Government Code, is amended by adding Subsections (b-1), (d), and (e) to read as follows:

(b-1) The information for consumers required by this section must include for each provider of long-term care services:

(1) a rating assigned by the Department of Aging and Disability Services indicating the quality of the care provided or, alternatively, a link to a rating assigned a provider on an Internet website maintained by the federal government;

(2) information concerning quality of care, as that information becomes available;

(3) staffing information, if available, including for each year the number of staff members who began employment with the provider during that year and the number of staff members who ceased employment with the provider during that year;

(4) the ratio of staff members to residents; and

(5) the provider's regulatory performance, as available.

retention bonuses to each person who holds a position designated as eligible for a bonus by the commissioner and who agrees to continue to provide services at the Austin State Supported Living Center until the center is closed.

(d) The proceeds from the closure, including from the sale or lease of facilities or other property, may be appropriated only for services for persons with an intellectual or developmental disability, including persons with a dual diagnosis of an intellectual or developmental disability and mental illness.

(e) Not later than August 31, 2018, the department shall evaluate the closure process, including how well the closure plan worked, and, if appropriate, establish policies for improving the closure process for future closures of other state supported living centers.

(f) This section expires September 1, 2018.

SECTION 20. Section 531.0318, Government Code, is amended by adding Subsections (b-1), (b-2), (d), and (e) to read as follows:

(b-1) Except as provided by Subsection (b-2), the information for consumers required by this section must include for each provider of long-term care services:

(1) a rating assigned by the Department of Aging and Disability Services indicating the quality of the care provided or, alternatively, a link to a rating assigned a provider on an Internet website maintained by the federal government;

(2) information concerning quality of care, as that information becomes available;

(3) staffing information, if available, including for each year the number of staff members who began employment with the provider during that year and the number of staff members who ceased employment with the provider during that year;

(4) the ratio of staff members to residents; and

(5) the provider's regulatory performance, as available.

(b-2) Subsection (b-1)(1) does not apply to, and the Department of Aging and Disability Services is not required to include the information described by that subsection for, a facility licensed under Chapter 247,

(d) The Department of Aging and Disability Services shall immediately post notice on the department's Internet website when a provider of long-term care services loses its Medicaid certification.

(e) The Department of Aging and Disability Services shall periodically solicit input regarding the content of the information required under this section and the usability and accessibility of the website on which the information is located from consumers, consumer advocates, long-term care services providers, and the general public.

SECTION 21. Section 531.058(a), Government Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, and Section 531.058(c), Government Code, are amended.

SECTION 22. Section 531.058, Government Code, is amended.

SECTION 23. Section 531.951(a), Government Code, is amended to read as follows:

(a) This subchapter applies only to the final licensing, listing, or registration decisions of a health and human services agency with respect to a person under the law authorizing the agency to regulate the following types of persons:

- (1) a youth camp licensed under Chapter 141, Health and Safety Code;
- (2) a home and community support services agency licensed under Chapter 142, Health and Safety Code;
- (3) a hospital licensed under Chapter 241, Health and Safety Code;
- (4) an institution licensed under Chapter 242, Health and Safety Code;
- (5) an assisted living facility licensed under Chapter 247, Health and Safety Code;
- (6) a special care facility licensed under Chapter 248, Health and Safety Code;
- (7) an intermediate care facility licensed under Chapter 252, Health and Safety Code;
- (8) a chemical dependency treatment facility licensed under Chapter 464, Health and Safety Code;
- (9) a mental hospital or mental health

Health and Safety Code.

(d) The Department of Aging and Disability Services shall immediately post notice on the department's Internet website when a provider of long-term care services loses its Medicaid certification.

(e) The Department of Aging and Disability Services shall periodically solicit input regarding the content of the information required under this section and the usability and accessibility of the website on which the information is located from consumers, consumer advocates, long-term care services providers, and the general public.

SECTION 21. Same as engrossed version.

SECTION 22. Same as engrossed version.

SECTION 23. Section 531.951(a), Government Code, is amended to read as follows:

(a) This subchapter applies only to the final licensing, listing, or registration decisions of a health and human services agency with respect to a person under the law authorizing the agency to regulate the following types of persons:

- (1) a youth camp licensed under Chapter 141, Health and Safety Code;
- (2) a home and community support services agency licensed under Chapter 142, Health and Safety Code;
- (3) a hospital licensed under Chapter 241, Health and Safety Code;
- (4) an institution licensed under Chapter 242, Health and Safety Code;
- (5) an assisted living facility licensed under Chapter 247, Health and Safety Code;
- (6) a special care facility licensed under Chapter 248, Health and Safety Code;
- (7) an intermediate care facility licensed under Chapter 252, Health and Safety Code;
- (8) a chemical dependency treatment facility licensed under Chapter 464, Health and Safety Code;
- (9) a mental hospital or mental health

facility licensed under Chapter 577, Health and Safety Code;

(10) a child-care facility or child-placing agency licensed under or a family home listed or registered under Chapter 42, Human Resources Code; or

(11) a day activity and health services [~~an adult day care~~] facility licensed under Chapter 103, Human Resources Code.

SECTION 24. Subchapter D, Chapter 48, Human Resources Code, is amended.

SECTION 25. The heading to Chapter 103, Human Resources Code, is amended to read as follows:

CHAPTER 103. DAY ACTIVITY AND HEALTH SERVICES PROGRAMS  
~~[ADULT DAY CARE]~~

SECTION 26. Section 103.001, Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 103.001. PURPOSE. It is the purpose of this chapter to establish programs of quality day activity and health services [~~adult day care and day health care~~] that will enable persons with disabilities who have medical or functional impairments and elderly persons to maintain maximum independence and to prevent premature or inappropriate institutionalization. It is the purpose of this chapter to provide adequately regulated supervision for elderly persons and persons with disabilities while enabling them to remain in a family environment and affording the family a measure of normality in its daily activities. The legislature intends to provide for the development of policies and programs that will:

- (1) provide alternatives to institutionalization;
- (2) establish facilities for day activity and health services programs [~~adult day care and day health care~~] throughout the state that offer services and are accessible to economically disadvantaged persons; and
- (3) prevent inappropriate institutionalization.

facility licensed under Chapter 577, Health and Safety Code;

(10) a child-care facility or child-placing agency licensed under or a family home listed or registered under Chapter 42, Human Resources Code; or

(11) an adult day services [~~day care~~] facility licensed under Chapter 103, Human Resources Code.

SECTION 24. Same as engrossed version.

SECTION 25. The heading to Chapter 103, Human Resources Code, is amended to read as follows:

CHAPTER 103. ADULT DAY SERVICES  
~~[CARE]~~

SECTION 26. Section 103.001, Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 103.001. PURPOSE. It is the purpose of this chapter to establish programs of quality adult day services [~~care and day health care~~] that will enable persons with disabilities who have medical or functional impairments and elderly persons to maintain maximum independence and to prevent premature or inappropriate institutionalization. It is the purpose of this chapter to provide adequately regulated supervision for elderly persons and persons with disabilities while enabling them to remain in a family environment and affording the family a measure of normality in its daily activities. The legislature intends to provide for the development of policies and programs that will:

- (1) provide alternatives to institutionalization;
- (2) establish facilities for adult day services [~~care and day health care~~] throughout the state that offer services and are accessible to economically disadvantaged persons; and
- (3) prevent inappropriate institutionalization.

SECTION 27. Section 103.002, Human Resources Code, is amended to read as follows:

Sec. 103.002. SHORT TITLE. This chapter may be cited as the Day Activity and Health Services [~~Adult Day Care~~] Act.

SECTION 28. Section 103.003(1), Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(1) "Day activity and health services facility" [~~"Adult day care facility"~~] means a facility that provides services under a day activity and health services [~~an adult day care~~] program on a daily or regular basis but not overnight to four or more elderly persons or persons with disabilities who are not related by blood, marriage, or adoption to the owner of the facility.

SECTION 29. Section 103.003(2), Human Resources Code, is amended to read as follows:

(2) "Day activity and health services program" [~~"Adult day care program"~~] means a structured, comprehensive program that is designed to meet the needs of adults with functional impairments through an individual plan of care by providing health, social, and related support services in a protective setting.

SECTION 30. Section 103.0041(a), Human Resources Code, is amended to read as follows:

(a) A person may not operate a day activity and health services [~~an adult day care~~] facility without a license issued under this chapter.

SECTION 31. Section 103.006(a), Human Resources Code, is amended to read as follows:

(a) The department shall issue a license to operate a day activity and health services [~~an adult day care~~] facility to a person who has met the application requirements and

SECTION 27. Section 103.002, Human Resources Code, is amended to read as follows:

Sec. 103.002. SHORT TITLE. This chapter may be cited as the Adult Day Services [~~Care~~] Act.

SECTION 28. Section 103.003(1), Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(1) "Adult day services [~~day care~~] facility" means a facility that provides services under an adult day services [~~day care~~] program on a daily or regular basis but not overnight to four or more elderly persons or persons with disabilities who are not related by blood, marriage, or adoption to the owner of the facility.

SECTION 29. Section 103.003(2), Human Resources Code, is amended to read as follows:

(2) "Adult day services [~~day care~~] program" means a structured, comprehensive program that is designed to meet the needs of adults with functional impairments through an individual plan of care by providing health, social, and related support services in a protective setting.

SECTION 30. Section 103.0041(a), Human Resources Code, is amended to read as follows:

(a) A person may not operate an adult day services [~~day care~~] facility without a license issued under this chapter.

SECTION 31. Section 103.006(a), Human Resources Code, is amended to read as follows:

(a) The department shall issue a license to operate an adult day services [~~day care~~] facility to a person who has met the application requirements and received

received approval after an on-site inspection.

SECTION 32. Section 103.007(a), Human Resources Code, is amended to read as follows:

(a) An applicant for a license to operate a day activity and health services [~~an adult day-care~~] facility must file an application on a form prescribed by the department together with a license fee of \$50.

SECTION 33. Section 103.0075(a), Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The executive commissioner by rule shall adopt a procedure under which a person proposing to construct or modify a day activity and health services [~~an adult day-care~~] facility may submit building plans to the department for review for compliance with the department's architectural requirements before beginning construction or modification. In adopting the procedure, the executive commissioner shall set reasonable deadlines by which the department must complete review of submitted plans.

SECTION 34. Chapter 103, Human Resources Code, is amended by adding Section 103.0085 to read as follows:

Sec. 103.0085. PROGRESSIVE SANCTIONS. (a) The executive commissioner by rule shall create a matrix of progressive sanctions that the department must use to assess penalty amounts and impose disciplinary actions under this chapter appropriately and fairly for a violation of a law, rule, standard, or order adopted or license issued under this chapter or for a violation of other law for which this chapter provides a sanction.

(b) The matrix of progressive sanctions adopted under this section must provide for increases in amounts of administrative penalties based on type, frequency, and seriousness of violations and must provide guidance for determining appropriate and graduated administrative penalties to assess

approval after an on-site inspection.

SECTION 32. Section 103.007(a), Human Resources Code, is amended to read as follows:

(a) An applicant for a license to operate an adult day services [~~day-care~~] facility must file an application on a form prescribed by the department together with a license fee of \$50.

SECTION 33. Section 103.0075(a), Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(a) The executive commissioner by rule shall adopt a procedure under which a person proposing to construct or modify an adult day services [~~day-care~~] facility may submit building plans to the department for review for compliance with the department's architectural requirements before beginning construction or modification. In adopting the procedure, the executive commissioner shall set reasonable deadlines by which the department must complete review of submitted plans.

SECTION 34. Chapter 103, Human Resources Code, is amended by adding Section 103.0085 to read as follows:

Sec. 103.0085. PROGRESSIVE SANCTIONS. (a) The executive commissioner by rule shall create a matrix of progressive sanctions that the department must use to assess penalty amounts and impose disciplinary actions under this chapter appropriately and fairly for a violation of a law, rule, standard, or order adopted or license issued under this chapter or for a violation of other law for which this chapter provides a sanction.

(b) The matrix of progressive sanctions adopted under this section must provide for increases in amounts of administrative penalties based on type, frequency, and seriousness of violations and must provide guidance for determining appropriate and graduated administrative penalties to assess

under this chapter to deter future violations, including guidance on considering the factors listed in this chapter for determining the amount of a penalty.

(c) The matrix of progressive sanctions adopted under this section must provide for imposing stronger sanctions, including license suspension or revocation, for more serious violations or for repeated violations as appropriate to deter future serious or repeated violations. The matrix of progressive sanctions must describe appropriate time frames to be used in determining whether a day activity and health services facility has committed repeated violations or has engaged in a pattern of repeated violations, such as repeated violations found in consecutive regular inspections.

SECTION 35. Section 103.0091(a), Human Resources Code, is amended to read as follows:

(a) The department may petition a district court for a temporary restraining order to restrain a continuing violation of the standards or licensing requirements provided under this chapter if the department finds that the violation creates an immediate threat to the health and safety of the day activity and health services facility ~~[adult day care]~~ residents.

SECTION 36. Section 103.0092(a), Human Resources Code, is amended to read as follows:

(a) If the department finds a day activity and health services ~~[an adult day care]~~ facility operating in violation of the standards prescribed by this chapter and the violations create an immediate threat to the health and safety of a resident in the facility, the department shall suspend the license or order immediate closing of all or part of the facility.

SECTION 37. Section 103.011, Human Resources Code, is amended to read as follows:

Sec. 103.011. RIGHTS OF THE ELDERLY. (a) In addition to other rights an individual attending a day activity and

under this chapter to deter future violations, including guidance on considering the factors listed in this chapter for determining the amount of a penalty.

(c) The matrix of progressive sanctions adopted under this section must provide for imposing stronger sanctions, including license suspension or revocation, for more serious violations or for repeated violations as appropriate to deter future serious or repeated violations. The matrix of progressive sanctions must describe appropriate time frames to be used in determining whether an adult day services facility has committed repeated violations or has engaged in a pattern of repeated violations, such as repeated violations found in consecutive regular inspections.

SECTION 35. Section 103.0091(a), Human Resources Code, is amended to read as follows:

(a) The department may petition a district court for a temporary restraining order to restrain a continuing violation of the standards or licensing requirements provided under this chapter if the department finds that the violation creates an immediate threat to the health and safety of the adult day services facility ~~[day care]~~ residents.

SECTION 36. Section 103.0092(a), Human Resources Code, is amended to read as follows:

(a) If the department finds an adult day services ~~[day care]~~ facility operating in violation of the standards prescribed by this chapter and the violations create an immediate threat to the health and safety of a resident in the facility, the department shall suspend the license or order immediate closing of all or part of the facility.

SECTION 37. Section 103.011, Human Resources Code, is amended to read as follows:

Sec. 103.011. RIGHTS OF THE ELDERLY. (a) In addition to other rights an individual attending an adult day services

health services [~~an adult day care~~] facility has as a citizen, an individual who is 55 years of age or older has the rights prescribed by Chapter 102 of this code.

(b) The department shall require each day activity and health services [~~adult day care~~] facility to implement and enforce the applicable provisions of Chapter 102 of this code.

SECTION 38. Section 103.012(a), Human Resources Code, is amended to read as follows:

(a) The department may assess an administrative penalty against a person who:

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

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

(A) on an application for issuance or renewal of a license or in an attachment to the application; or

(B) with respect to a matter under investigation by the department;

(3) refuses to allow a representative of the department to inspect:

(A) a book, record, or file required to be maintained by a day activity and health services [~~an adult day care~~] facility; or

(B) any portion of the premises of a day activity and health services [~~an adult day care~~] facility;

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

(5) wilfully interferes with a representative of the department preserving evidence of a violation of this chapter, a rule, standard, or order adopted under this chapter, or a term of a license issued under this chapter;

(6) fails to pay a penalty assessed under this chapter not later than the 30th day after the date the assessment of the penalty becomes final; or

(7) fails to notify the department of a change of ownership before the effective date of the change of ownership.

SECTION 39. Section 103.013, Human Resources Code, is amended to read as follows:

[care] facility has as a citizen, an individual who is 55 years of age or older has the rights prescribed by Chapter 102 of this code.

(b) The department shall require each adult day services [~~care~~] facility to implement and enforce the applicable provisions of Chapter 102 of this code.

SECTION 38. Section 103.012(a), Human Resources Code, is amended to read as follows:

(a) The department may assess an administrative penalty against a person who:

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

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

(A) on an application for issuance or renewal of a license or in an attachment to the application; or

(B) with respect to a matter under investigation by the department;

(3) refuses to allow a representative of the department to inspect:

(A) a book, record, or file required to be maintained by an adult day services [~~day care~~] facility; or

(B) any portion of the premises of an adult day services [~~day care~~] facility;

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

(5) wilfully interferes with a representative of the department preserving evidence of a violation of this chapter, a rule, standard, or order adopted under this chapter, or a term of a license issued under this chapter;

(6) fails to pay a penalty assessed under this chapter not later than the 30th day after the date the assessment of the penalty becomes final; or

(7) fails to notify the department of a change of ownership before the effective date of the change of ownership.

SECTION 39. Section 103.013, Human Resources Code, is amended to read as follows:



Sec. 103.013. RIGHT TO CORRECT BEFORE IMPOSITION OF ADMINISTRATIVE PENALTY. (a) The department may not collect an administrative penalty from a day activity and health services [an adult day care] facility under Section 103.012 if, not later than the 45th day after the date the facility receives notice under Section 103.014(c), the facility corrects the violation.

(b) The executive commissioner of the Health and Human Services Commission by rule shall define types of minor violations a day activity and health services facility may correct under Subsection (a) before assessing an administrative penalty. The executive commissioner shall ensure that all other violations are not subject to a right to correct [~~Subsection (a) does not apply to:~~

~~(1) a violation that the department determines:~~

~~[(A) results in serious harm to or death of a person attending the facility;~~

~~[(B) constitutes a serious threat to the health and safety of a person attending the facility; or~~

~~[(C) substantially limits the facility's capacity to provide care;~~

~~[(2) a violation described by Sections 103.012(a)(2)-(7); or~~

~~[(3) a violation of Section 103.011].~~

(c) A day activity and health services [An adult day care] facility that corrects a violation must maintain the correction. If the facility fails to maintain the correction until at least the first anniversary after the date the correction was made, the department may assess and collect an administrative penalty for the subsequent violation. An administrative penalty assessed under this subsection is equal to three times the amount of the original penalty assessed but not collected. The department is not required to provide the facility with an opportunity under this section to correct the subsequent violation.

SECTION 40. Sections 103.014(c) and (e), Human Resources Code, are amended to read as follows:

(c) The department shall give written notice of the report to the person charged with the violation not later than the 10th day after the date on which the report is issued. The

Sec. 103.013. RIGHT TO CORRECT BEFORE IMPOSITION OF ADMINISTRATIVE PENALTY. (a) The department may not collect an administrative penalty from an adult day services [day care] facility under Section 103.012 if, not later than the 45th day after the date the facility receives notice under Section 103.014(c), the facility corrects the violation.

(b) The executive commissioner of the Health and Human Services Commission by rule shall define types of minor violations an adult day services facility may correct under Subsection (a) before assessing an administrative penalty. The executive commissioner shall ensure that all other violations are not subject to a right to correct [~~Subsection (a) does not apply to:~~

~~(1) a violation that the department determines:~~

~~[(A) results in serious harm to or death of a person attending the facility;~~

~~[(B) constitutes a serious threat to the health and safety of a person attending the facility; or~~

~~[(C) substantially limits the facility's capacity to provide care;~~

~~[(2) a violation described by Sections 103.012(a)(2)-(7); or~~

~~[(3) a violation of Section 103.011].~~

(c) An adult day services [day care] facility that corrects a violation must maintain the correction. If the facility fails to maintain the correction until at least the first anniversary after the date the correction was made, the department may assess and collect an administrative penalty for the subsequent violation. An administrative penalty assessed under this subsection is equal to three times the amount of the original penalty assessed but not collected. The department is not required to provide the facility with an opportunity under this section to correct the subsequent violation.

SECTION 40. Sections 103.014(c) and (e), Human Resources Code, are amended to read as follows:

(c) The department shall give written notice of the report to the person charged with the violation not later than the 10th day after the date on which the report is issued. The

notice must include:

- (1) a brief summary of the charges;
- (2) a statement of the amount of penalty recommended;
- (3) a statement of whether the violation is subject to correction under Section 103.013 and, if the violation is subject to correction under that section, a statement of:
  - (A) the date on which the day activity and health services ~~[adult day care]~~ facility must file a plan of correction with the department that the department shall review and may approve, if satisfactory; and
  - (B) the date on which the plan of correction must be completed to avoid assessment of the penalty; and
- (4) a statement that the person charged has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both.
- (e) If the violation is subject to correction under Section 103.013, the day activity and health services ~~[adult day care]~~ facility shall submit a plan of correction to the department for approval not later than the 10th day after the date on which the notice under Subsection (c) is received.

SECTION 41. Section 161.080, Human Resources Code, is amended.

SECTION 42. Chapter 161, Human Resources Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. POWERS AND DUTIES RELATING TO DAY HABILITATION SERVICES PROVIDERS  
Sec. 161.401. DEFINITIONS. In this subchapter:

- (1) "Day habilitation services" means services to assist persons with an intellectual or developmental disability in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in the community, including prevocational, educational, and supported employment services.
- (2) "Day habilitation services provider" means a person who contracts with a community-based intellectual and developmental disabilities services provider or intermediate care facility to provide federally funded Medicaid day habilitation services authorized under Section 1915(c) of

notice must include:

- (1) a brief summary of the charges;
- (2) a statement of the amount of penalty recommended;
- (3) a statement of whether the violation is subject to correction under Section 103.013 and, if the violation is subject to correction under that section, a statement of:
  - (A) the date on which the adult day services ~~[day care]~~ facility must file a plan of correction with the department that the department shall review and may approve, if satisfactory; and
  - (B) the date on which the plan of correction must be completed to avoid assessment of the penalty; and
- (4) a statement that the person charged has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both.
- (e) If the violation is subject to correction under Section 103.013, the adult day services ~~[day care]~~ facility shall submit a plan of correction to the department for approval not later than the 10th day after the date on which the notice under Subsection (c) is received.

SECTION 41. Same as engrossed version.

SECTION 42. Chapter 161, Human Resources Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. POWERS AND DUTIES RELATING TO DAY HABILITATION SERVICES PROVIDERS  
Sec. 161.401. DEFINITIONS. In this subchapter:

- (1) "Day habilitation services" means services to assist persons with an intellectual or developmental disability in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in the community, including prevocational and educational services.
- (2) "Day habilitation services provider" means a person who contracts with a community-based intellectual and developmental disabilities services provider or intermediate care facility to provide federally funded Medicaid day habilitation services authorized under Section 1915(c) of

the federal Social Security Act (42 U.S.C. Section 1396n(c)).

Sec. 161.402. DAY HABILITATION SERVICES PROVIDER INFORMATION TRACKING.

Sec. 161.403. DAY HABILITATION PROGRAM ADVISORY COMMITTEE.

No equivalent provision.

the federal Social Security Act (42 U.S.C. Section 1396n(c)).

Sec. 161.402. DAY HABILITATION SERVICES PROVIDER INFORMATION TRACKING.

Sec. 161.403. DAY HABILITATION PROGRAM ADVISORY COMMITTEE.

SECTION 43. (a) Subchapter A, Chapter 161, Human Resources Code, is amended by adding Sections 161.0031 and 161.004 to read as follows:

Sec. 161.0031. INAPPLICABILITY OF CERTAIN LAW. Notwithstanding Section 161.003, Section 325.017, Government Code, does not apply to the department.

Sec. 161.004. MEANING OF CERTAIN REFERENCES IN LAW. (a) A reference in this chapter or in any other law to the department in relation to a function transferred under Section 161.012 means the commission or the division of the commission performing the function after its transfer.

(b) In this chapter or in any other law and notwithstanding any other law, a reference to any of the following state agencies or to the chief executive officer or governing body of any of the following state agencies in relation to a function transferred to the commission under Section 161.012 from the department that the department assumed in accordance with Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, means the executive commissioner, the commission, or the division of the commission performing the function after its transfer to the commission:

(1) the Texas Department on Aging;  
(2) the Texas Department of Human Services; and

(3) the Texas Department of Mental Health and Mental Retardation.

(c) A reference in this chapter or in any other law to the commissioner in relation to a function transferred under Section 161.012 means the executive commissioner, the executive commissioner's designee, or the director of the division of the commission performing the function after its transfer.

(d) A reference in this chapter or in any other law to the council in relation to a function after its transfer under Section 161.012 means the executive commissioner

or the executive commissioner's designee, as appropriate, and a function previously performed by the council is a function of that appropriate person.

(b) Chapter 161, Human Resources Code, is amended by adding Subchapter A-1 to read as follows:

SUBCHAPTER A-1. TRANSFER OF AGING AND DISABILITY SERVICES TO COMMISSION

Sec. 161.011. DEFINITIONS. In this subchapter:

(1) "Administrative support services" has the meaning assigned by Section 531.0055(d), Government Code.

(2) "Function" includes a power, duty, program, or activity of a state agency or entity.

Sec. 161.012. TRANSFER OF AGING AND DISABILITY SERVICES TO COMMISSION. (a) Not later than

September 1, 2016, the following functions are transferred to the commission as provided by this subchapter:

(1) appropriate department administrative support services functions, as determined by the executive commissioner in consultation with the department;

(2) all department client services functions, as defined by the executive commissioner by rule; and

(3) all functions of the council.

(b) On or after September 1, 2016, but not later than September 1, 2017, all functions, including administrative support services functions, that remained with the department after the initial transfer of functions under Subsection (a) are transferred to the commission.

Sec. 161.013. EFFECT OF TRANSFERS.

(a) All of the following that relate to a function that is transferred under Section 161.012 are transferred to the commission on the date the related function is transferred to the commission:

(1) all obligations and contracts, including obligations and contracts related to a grant program;

(2) all property and records in the custody of the department or council from which the function is transferred;

(3) all funds appropriated by the legislature and other money;

(4) all complaints, investigations, or contested cases that are pending before the

department or the commissioner, without change in status; and

(5) all necessary personnel, as determined by the executive commissioner.

(b) A rule, policy, or form adopted by or on behalf of the department or council that relates to a function that is transferred under Section 161.012 becomes a rule, policy, or form of the commission on transfer of the related function and remains in effect:

(1) until altered by the executive commissioner or commission, as appropriate; or

(2) unless it conflicts with a rule, policy, or form of the commission.

(c) A license, permit, or certification in effect that was issued by the department that relates to a function that is transferred under Section 161.012 is continued in effect as a license, permit, or certification of the commission on transfer of the related function until the license, permit, or certification expires, is suspended or revoked, or otherwise becomes invalid.

Sec. 161.014. APPLICABILITY OF FORMER LAW. An action brought or proceeding commenced before the date of a transfer prescribed by this subchapter, including a contested case or a remand of an action or proceeding by a reviewing court, is governed by the laws and rules applicable to the action or proceeding before the transfer.

Sec. 161.015. AUTHORITY OF DEPARTMENT. The powers and authority of the department with respect to a function are not reduced or otherwise limited until the date the function is transferred in accordance with this subchapter, notwithstanding Section 161.003 or any other law.

Sec. 161.016. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2019.

(c) Section 161.003, Human Resources Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

Sec. 161.003. SUNSET PROVISION. The department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished [~~and this chapter expires~~] September 1, 2015.

(d) As soon as appropriate under

Subchapter A-1, Chapter 161, Human Resources Code, as added by this section, and in a manner that minimizes disruption of services, the Health and Human Services Commission shall take appropriate action to be designated as the state agency responsible under federal law for any state or federal program that is transferred to the commission in accordance with that subchapter and for which federal law requires the designation of a responsible state agency.

(e) Effective September 1, 2016, the following provisions of the Human Resources Code, including provisions amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

- (1) Section 161.021;
- (2) Section 161.022;
- (3) Section 161.023;
- (4) Section 161.024;
- (5) Section 161.025;
- (6) Section 161.026;
- (7) Section 161.027;
- (8) Section 161.028;
- (9) Section 161.029; and
- (10) Section 161.030.

(f) Effective September 1, 2017, the following provisions of the Human Resources Code, including provisions added or amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, are repealed:

- (1) Section 161.002;
- (2) Section 161.032;
- (3) Section 161.051;
- (4) Section 161.052;
- (5) Section 161.053;
- (6) Section 161.054;
- (7) Section 161.055;
- (8) Section 161.056;
- (9) Section 161.0711;
- (10) Section 161.0712; and
- (11) Section 161.072.

(g) Notwithstanding Subsections (e) and (f) of this section, the implementation of a provision repealed by one of those subsections ceases on the date all functions of the Department of Aging and Disability Services or the Aging and Disability Services Council are transferred to the Health and Human Services Commission as provided by Subchapter A-1, Chapter 161, Human Resources Code, as added by this

section, to the extent the department or council is responsible for the provision's implementation.

(h) This section takes effect only if the Department of Aging and Disability Services is not continued in existence by any legislation of the 84th Legislature, Regular Session, 2015.

(i) Subject to Subsection (h) of this section, this section takes effect September 1, 2015.

SECTION 43. Section 247.051(b), Health and Safety Code, is repealed.

SECTION 44. Section 101A.158, Human Resources Code, as added by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is repealed.

No equivalent provision.

SECTION 44. The following laws are repealed:

(1) Section 247.051(b), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015; and

(2) Section 101A.158, Human Resources Code, as added by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015.

SECTION 45. (a) Not later than September 1, 2016, the executive commissioner of the Health and Human Services Commission shall adopt by rule the matrices of progressive sanctions required by Sections 142.0125, 242.0613, 247.0415, and 252.0615, Health and Safety Code, and Section 103.0085, Human Resources Code, as added by this Act. Before the executive commissioner of the Health and Human Services Commission publishes a notice of a proposed rule under this subsection, the executive commissioner shall solicit input from stakeholders concerning the development of those rules.

(b) Not later than September 1, 2015, the governor shall appoint five members of the state supported living center restructuring commission, as required by Section 555.201, Health and Safety Code, as added by this Act.

(c) Not later than September 1, 2016, the executive commissioner of the Health and Human Services Commission shall adopt the rule listing services a state supported living center may provide under a contract and the schedule of fees for those services as required by Section 161.080, Human Resources Code, as amended by this Act.

SECTION 46. (a) As soon as possible after the effective date of this Act, the Department of Aging and Disability Services or the Health and Human Services Commission, as appropriate, shall apply for any waiver or other authorization from a federal agency that is necessary to implement this Act. The department and commission may delay implementing this Act until the waiver or authorization is granted.

(b) As soon as practicable after the effective date of this Act:

(1) the executive commissioner of the Health and Human Services Commission shall adopt the rules necessary to implement Section 531.058(a-1), Government Code, as added by this Act; and

(2) the Department of Aging and Disability Services and the Health and Human Services Commission shall, as appropriate, revise or enter into a memorandum of understanding as required by a federal agency that is necessary to implement Section 531.058(a-1), Government Code, as added by this Act.

SECTION 47. Sections 242.061(a-2) and (a-3), Health and Safety Code, as added by this Act, apply only to a violation committed on or after September 1, 2016. A violation committed before September 1, 2016, is governed by the law in effect on the date the violation was committed, and the former law is continued in effect for that purpose. For purposes of this section, a violation was committed before September 1, 2016, if any element of the violation occurred before that date.

SECTION 48. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

(b) Sections 242.061(a-2) and (a-3), Health and Safety Code, as added by this Act, take effect September 1, 2016.

SECTION 46. Same as engrossed version.

SECTION 47. Same as engrossed version.

SECTION 48. (a) Except as otherwise provided by this Act, including Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

(b) Sections 242.061(a-2) and (a-3), Health and Safety Code, as added by this Act, take effect September 1, 2016.



