

BILL ANALYSIS

C.S.H.B. 2205
By: Clardy
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There have been calls to ensure fairness in the informal dispute resolution process for certain disputes between the Health and Human Services Commission and long-term care facilities regarding certain alleged violations, given that these facilities can be faced with fines, reputational damage, and potential closure. C.S.H.B. 2205 seeks to address those calls by requiring the applicable surveyor of the facility to clarify or answer questions related to the facility or the statement, requiring the review of the applicable dispute resolution request to be conducted by a registered nurse with long-term care experience for a standard of care violation, and requiring immediate notification of facility management when certain violations are identified during an inspection, survey, or investigation.

CRIMINAL JUSTICE IMPACT

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

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2205 amends the Government Code to require the informal dispute resolution process for the statement of violations prepared in connection with a survey conducted by the Health and Human Services Commission (HHSC) of certain state-licensed long-term care facilities to require:

- the surveyor who conducted the survey for which the statement was prepared to clarify or answer questions related to the facility or the statement that are asked by the person reviewing the dispute or by the facility; and
- the HHSC review of the facility's informal dispute resolution request to be conducted by a registered nurse with long-term care experience for a standard of care violation.

C.S.H.B. 2205 amends the Health and Safety Code to require HHSC to notify immediately the management of a convalescent or nursing facility or related institution of a violation that constitutes immediate jeopardy to the health or safety of a resident that is identified by HHSC or the HHSC representative conducting an inspection, survey, or investigation. If such a violation is identified, an HHSC representative is required to remain in or be accessible to the facility until HHSC has received the facility's plan of removal related to the violation.

C.S.H.B. 2205 repeals Section 531.058(a-1), Government Code, as added by Chapter 836 (H.B. 2025), Acts of the 85th Legislature, Regular Session, 2017.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2205 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not require the informal dispute resolution process to require the applicable surveyor to be available to testify or be examined during any proceeding of the process, but the substitute requires the process to require the surveyor instead to clarify or answer questions related to the facility or the statement of violations that are asked by the person reviewing the dispute or by the facility.

The substitute changes the required action of an HHSC representative when HHSC or its representative identifies a violation that constitutes immediate jeopardy to a resident's health or safety from remaining in the facility until HHSC has accepted the facility's plan to correct the violation to remaining in or being accessible to the facility until HHSC has received a plan of removal related to the violation.

The substitute includes a procedural provision relating to requesting a waiver or authorization from a federal agency.