

- SUBJECT:** Temporary change of ownership licenses for nursing home facilities
- COMMITTEE:** Human Services — committee substitute recommended
- VOTE:** 6 ayes — Rose, S. King, Herrero, Hughes, Naishtat, Parker
0 nays
3 absent — J. Davis, Eissler, Pierson
- WITNESSES:** For — Gavin Gadberry, Texas Health Care Association
Against — None
On — Anthony Chapple, Texas Department of Aging and Disability Services; (*Registered, but did not testify:* Nelson Roach, Texas Trial Lawyers Association)
- BACKGROUND:** The Department of Aging and Disability Services (DADS) issues licenses to nursing facilities. When a nursing facility changes ownership, the new owner must obtain a temporary license, and the facility is subject to inspection before receiving a permanent license. The law does not dictate the amount of notice a new owner must provide to obtain a license, and there is no provision requiring the former owner to provide notice of intent to transfer ownership of the facility.

The Health and Human Services Commission (HHSC) withholds the final 30 days of payment for Medicaid services rendered by the former nursing facility owner so that HHSC can deduct any previous overpayments to the facility from the final sum paid. There is no statute governing the timeframe in which HHSC must make the final payment to a former nursing facility owner.
- DIGEST:** CSHB 3513 would define timeframes and requirements to obtain a temporary change of ownership license for a nursing facility and would define the process by which previous nursing facility license holders would receive final payment.

Temporary change of ownership licenses. A temporary change of ownership license would be valid for 90 days. DADS could not issue a temporary change of ownership license within 30 days from the date DADS received the application for the license and notification from the existing license holder of the intent to transfer the facility to the applicant. DADS could define certain circumstances under which the 30-day notification requirement could be waived, including events that would affect the ownership of the institution by the current license holder.

The executive commissioner of HHSC would adopt rules regarding change of ownership of nursing facilities with consideration to:

- the proportion of ownership interest being transferred;
- the addition or removal of controlling parties in the transfer;
- the reorganization of the license holder into a different type of entity; and
- the death or incapacity of a stockholder, partner, or owner.

The commissioner also could adopt rules for license holders to notify DADS of any change including a change that was not a change of ownership. This would not prevent the department from applying existing statutes for denial, revocation, or suspension of a license.

DADS would be required to issue the change of ownership license by the 31st day after receipt of the completed application. The license's effective date would be the date requested in the application, unless the license applicant did not meet any expedited criteria and had requested an effective date sooner than 30 days from the application date. Under this circumstance, the license would take effect on the 31st day following the date of application.

Review of facilities under a temporary change of ownership license. DADS would establish criteria for a desk review that could be substituted for the full on-site inspection or survey of the temporary license holder. If the nursing facility failed to pass the desk review or other inspection or met other requirements established for licensure, DADS could place a hold on vendor payments to the temporary change of ownership license holder or take any other action authorized against license holders.

If the applicant met all requirements for licensure, the temporary change of ownership license holder would receive the standard probationary

license to operate the facility for the first year. The probationary license would be considered effective as of the date the temporary change of ownership license was issued.

Payment of former license holder. After DADS received notice of intent to transfer the facility from the existing license holder, DADS would place a hold on payments to the existing license holder for an amount up to the average monthly vendor payment DADS would pay to the facility. DADS would release held funds no later than 120 days after final reporting requirements were met and any review or appeals were resolved. DADS could reduce the amount of funds released to the previous license holder by the amount owed to DADS or HHSC.

CSHB 3513 would take affect September 1, 2007, and would apply only to temporary change of ownership licenses received by DADS after this date.

NOTES:

The companion bill, SB 1649 by Janek, was reported favorably, as substituted by the Senate Health and Human Services Committee on April 27 and recommended for the Local and Uncontested Calendar.