

SUBJECT: Allowing desk review for DADS license application after owner change

COMMITTEE: Human Services — favorable, without amendment

VOTE: 8 ayes — Rose, Darby, Elkins, Hernandez, Hughes, Legler, Naishtat,
Walle

0 nays

1 absent — Herrero

SENATE VOTE: On final passage, April 23 — 30-0, on Local and Uncontested Calendar

WITNESSES: *(On House companion bill, HB 1895:)*
For — *(Registered, but did not testify: Gavin Gadberry, Texas Health Care
Association; Sid Rich, Texas Association of Residential Care
Communities)*

Against — None

On — Antony Chapple, Texas Department of Aging and Disability
Services

BACKGROUND: Health and Safety Code, sec. 142.009 authorizes the Department of Aging
and Disability Services (DADS) to enter the premises of a home health or
community support services provider to conduct a survey incidental to the
issuance of a license or to ensure compliance with agency rules. DADS is
required to conduct an on-site survey within 18 months after a survey for
an initial license and every 36 months after that. Sec. 247.023 requires
DADS to inspect and investigate an assisted living facility before issuing
or renewing a facility's license. Sec. 252.033 requires DADS to inspect
and investigate an intermediate care facility for the mentally retarded
before issuing or renewing a facility's license.

Human Resources Code, sec. 103.006 requires DADS to conduct an on-
site inspection of an adult day care facility before issuing a license to that
facility.

DIGEST: SB 1124 would allow the Department of Aging and Disability Services (DADS) to conduct a desk review of assisted-living, intermediate care, and adult day care facilities, and the premises of home health or community support services providers, if a license application was submitted due to a facility or provider's change in ownership. The executive commissioner of the Health and Human Services Commission would be required to develop rules for determining when a desk review could be conducted and adopt them by April 1, 2010. DADS would not be able to conduct a license application desk review instead of a survey, inspection, or investigation before May 1, 2010.

This bill would take effect September 1, 2009.

SUPPORTERS SAY: SB 1124 would allow for an expedited licensing process for assisted-living, intermediate care, and adult day care facilities, and the premises of home health or community support services providers that experienced an internal change in ownership with no real change in structure. The current requirement that an on-site investigation be conducted before issuing or renewing a license for certain facilities has created an inefficient use of DADS regional staff and resources. DADS would be given the proper rulemaking authority to protect against abuse of the process and ensure that any facility that had faced complaints would be properly investigated.

OPPONENTS SAY: SB 1124 could lead to lax enforcement of DADS rules and reduced oversight over facilities that provide inadequate care. A facility that faced repeated complaints or had violated department rules could submit a license application based on a cosmetic change in ownership and receive only a desk review. The bill should ensure that facilities that provide inadequate care or endanger their residents receive adequate oversight.

NOTES: The House companion bill, HB 1895 by J. Davis, was heard and left pending in the Human Services Committee on April 30.