

SUBJECT: Regulation of prescribed pediatric extended care centers

COMMITTEE: Public Health — committee substitute recommended

VOTE: 11 ayes — Crownover, Naishtat, Blanco, Coleman, Collier, S. Davis, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

WITNESSES: For — Duane Galligher, Pediatric Health Choice (*Registered, but did not testify*: Daniel Leeman)

Against — (*Registered, but did not testify*: Angela Smith)

On — (*Registered, but did not testify*: Chris Adams and Calvin Green, Department of Aging and Disability Services; Lisa Carruth, Michael Ghasemi, Pam McDonald, and Laurie VanHoose, Health and Human Services Commission)

BACKGROUND: Health and Safety Code, ch. 248A, defines a “prescribed pediatric extended care center” to mean a facility operated for profit or on a nonprofit basis that provides nonresidential basic services to four or more medically dependent or technologically dependent minors who require the services of the facility and who are not related by blood, marriage, or adoption to the owner or operator of the facility.

In 2013, the 83rd Legislature enacted SB 492 by Lucio, which established a regulatory framework for prescribed pediatric extended care (PPEC) centers. During the interim, some have called for further clarification of issues in the enacted legislation regarding PPEC center liability issues, the PPEC center reimbursement rate, and questions about whether a parent or guardian needed to be present when a child receives services at a center. Some also have called for the Department of Aging and Disability Services (DADS) to use a licensing process for the PPEC centers similar to the two-step process used at the department for licensing an assisted living facility, which involves allowing one but not more than three

residents to be admitted to the facility after DADS determines that the building meets certain requirements.

DIGEST:

CSHB 2340 would require a person to hold an initial, renewal, or temporary license to own or operate a PPEC center in the state. An applicant for a PPEC center license could not provide services under that license until DADS issued the license. A separate initial, renewal, or temporary license would be required for each center located on separate premises.

The bill would allow an applicant to apply for an initial PPEC center license in accordance with existing rules for a PPEC center license in Health and Safety Code, sec. 248A.052. An applicant for an initial license could request that DADS issue a temporary license pending the department's review of the applicant's application for an initial license. An applicant would not be required to request a temporary license to receive an initial or renewal license.

Under the bill, a temporary license would authorize an applicant to provide nonresidential basic services for up to six minors until the temporary license expired or was terminated. On receipt of a temporary license request, DADS would conduct a review of the applicant's policies, procedures, and staffing plans to serve minors in the center. The bill would allow DADS to grant an applicant's request for a temporary license if the department determined that the applicant was eligible for the license. An applicant would be eligible for a temporary license only if the applicant met:

- the license application requirements for an initial license;
- the building requirements and standards for a PPEC center provided in department rules adopted under Health and Safety Code, ch. 248A; and
- the requirements of DADS' review of the applicant's policies, procedures, and staffing plans.

An initial or renewal license would expire on the second anniversary of

the date of issuance. A temporary license would expire on the earlier of 90 days after the date the temporary license was issued or the last day of any extension period granted by the department, or the date an initial license was issued. The bill would prohibit DADS from granting more than one extension of a temporary license and from granting an extension for more than 90 days. The bill would require DADS to grant an extension if the temporary license holder submitted to the department an extension request in the manner prescribed by the department within 30 days before the date the temporary license would expire.

DADS could take an enforcement action against a temporary license holder for failure to comply with Health and Safety Code, ch. 248A related to PPEC centers and the rules adopted under the bill. The bill also would allow DADS to conduct a complaint investigation and inspection of a temporary license holder.

The bill would require nursing services provided by a center to be a one-to-one replacement of private duty nursing or other skilled nursing services unless additional nursing services were medically necessary. The bill also would specify that a minor client's parent, legal guardian, or managing conservator would not be required to accompany the client to the center when:

- the client received services in the center, including therapy services delivered in the center but billed separately; or
- the center transported or provided for the transport of the client to and from the center.

The bill would require the executive commissioner of the Health and Human Services Commission to adopt rules necessary to implement the bill. As soon as practicable after September 1, 2015, the executive commissioner would establish a reimbursement rate for licensed PPEC centers that were enrolled in Medicaid that, when converted to an hourly rate, would not be more than 70 percent of the average hourly unit rate for private duty nursing provided under the Texas Health Steps Comprehensive Care Program, Medicaid's comprehensive preventive

child health service (medical, dental, and case management) for individuals from birth to 20 years old.

The bill would require a state agency to request a federal waiver or authorization if the agency determined that such a waiver or authorization was necessary for implementation of a provision of the bill. The agency affected by the provision could delay implementing that provision until the waiver or authorization was granted.

The changes in law made by the bill related to temporary licenses would apply only to a temporary license application submitted to or an inspection conducted by DADS on or after September 1, 2016.

The bill would take effect September 1, 2015.