



Implementation of Key Long-Term Care Regulatory Legislation

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House Bill 2025, 85th Legislature, Regular Session, 2017

- Requires HHSC to extend license periods from two- to three-year terms for assisted living facilities (ALFs), prescribed pediatric extended care centers (PPECCs), intermediate care facilities for individuals with an intellectual disability or related conditions (ICFs/IID), and day activity and health services (DAHS) facilities
- Directs the implementation of a scope and severity tracking system for violations of minimum standards for ALFs, PPECCs, ICFs/IID, and DAHS facilities
- Allows HHSC to assess administrative penalties based on the scope and severity of a violation or take other enforcement action in order to deter future violations
- Allows HHSC to impose administrative penalties without allowing providers the opportunity to correct violations of higher scope and severity
- Increases penalty amounts for ALFs and eliminates caps on accrued penalties for ICFs/IID
- Directs new training requirements for facility staff who care for residents with Alzheimer's disease or related disorders



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HB 2025 Implementation

- Proposed rules sent to stakeholders on January 26, 2018, followed by an informal meeting to obtain and review in February
- In response to stakeholders, HHSC added more specificity to the Alzheimer's training requirements
- Proposed rules presented to the HHSC Executive Council on May 31, 2018, and published on June 22 for public comment
- Training webinar under development to provide clear guidance to surveyors and providers on the new process involving scope and severity



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HB 2025 Next Steps

- Target effective date for rules – October 2018
- Impacted licenses to transition to three-year terms beginning January 2019
- Surveyor and provider training to be conducted via webinar
- Provider communication, as necessary, will provide guidance in any area that requires further explanation or clarity



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House Bill 2590, 85th Legislature, Regular Session, 2017

- Allows Home and Community-based Services (HCS) and Texas Home Living (TxHmL) Medicaid waiver providers to develop and implement amelioration plans in lieu of payment of administrative penalties for regulatory violations
- Requires HHSC to adopt rules for informal dispute resolution for disputes relating to a proposed enforcement action against an HCS or TxHmL provider with adjudication by an appropriate disinterested party



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HB 2590 Next Steps

- Stakeholder meeting to be set for this month
- Present proposed rules to the HHSC Executive Council and the Medical Care Advisory Committee in February 2019
- Proposed rules published for public comment in April 2019
- Final rules effective August 2019



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Senate Bill 304, 84th Legislature, Regular Session, 2015

“Three Strikes Bill”

- Required HHSC to revoke a nursing facility license if the provider had committed three violations posing an immediate threat to resident health and safety due to abuse or neglect within a 24-month period
- Required HHSC to contract with a disinterested party who is a nonprofit organization to conduct informal dispute resolution (IDR) for nursing facilities



Impact of SB 304

- Since implementation of SB 304 on September 1, 2016, 131 strikes have been issued against Texas nursing facilities. Of the 103 strikes currently active:
 - One strike = 90 facilities
 - Two strikes = 5 facilities
 - Three strikes = 1 facility
- Fifteen facilities have changed ownership since receiving a strike.
 - Results in a new license number, and the strike count starts over



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Impact of SB 304

- Ten facilities had their strikes deleted:
 - Four facilities due to settlement agreements with CMS
 - Six facilities deleted following the IDR process
- Any strikes deleted as a result of the IDR process are deleted from the total count for those facilities



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SB 304: Nursing Facility IDR

- While SB 304 only addressed IDRs for nursing facilities, HHSC contracted out IDRs for all provider types that had previously been performed within HHSC, including ALFs. This was an attempt to foster consistency across provider types
- The contract was awarded to Michigan Peer Review Organization and was effective September 1, 2017
- Thus far in 2018, the vendor has reviewed 228 IDR cases, which encompassed 1,007 deficiencies/violations



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Recommendations to Improve Oversight of Long-Term Care Facilities

- Continue working with stakeholders to strengthen long-term care providers' preparation for natural disasters and other emergencies, including enhanced enforcement action taken against facilities that fail to comply with disaster related requirements
- Clarify HHSC's authority to grant long-term care providers waivers from standard rules to afford them flexibility needed to protect health and safety during natural disasters and emergencies