

BILL ANALYSIS

C.S.H.B. 2340
By: Sheffield
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the law relating to prescribed pediatric extended care centers that allow Medicaid-eligible children with medically complex conditions to receive continual medical care in a nonresidential setting needs to be clarified and updated. C.S.H.B. 2340 seeks to address this issue.

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. 2340 amends the Health and Safety Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to authorize an applicant for an initial prescribed pediatric extended care center license to request, in the manner prescribed by the Department of Aging and Disability Services (DADS) and in accordance with the bill's provisions, that DADS issue a temporary license pending its review of the applicant's application for an initial license. The bill does not require an applicant to request a temporary license to receive an initial or renewal license. The bill establishes that a temporary license authorizes an applicant to provide nonresidential basic services to not more than six minors until the temporary license expires or terminates in accordance with the bill's provisions. The bill requires DADS, on receipt of a temporary license request, to conduct a review of the applicant's policies, procedures, and staffing plans to serve minors in the center.

C.S.H.B. 2340 requires DADS to grant an applicant's request for a temporary license if DADS determines the applicant is eligible for the license and prohibits DADS from granting a request for a temporary license if DADS determines the applicant is ineligible for the temporary license. The bill sets out eligibility requirements for a temporary license and establishes the expiration date of a temporary license.

C.S.H.B. 2340 prohibits DADS from granting more than one extension of a temporary license issued under the bill's provisions and prohibits DADS from granting an extension for a period that exceeds 90 days. The bill requires DADS to grant an extension if a temporary license holder submits to DADS an extension request in the manner prescribed by DADS not later than the 30th day before the date the temporary license expires. The bill requires a temporary license holder to comply with statutory provisions, as amended by the bill, governing prescribed pediatric extended care centers and the rules adopted under those provisions for the period for which the

temporary license is issued, including an extension, if applicable. The bill authorizes DADS to take an enforcement action against a temporary license holder for failure to comply with those provisions and rules. The bill authorizes DADS to conduct a complaint investigation and inspection of a temporary license holder.

C.S.H.B. 2340 prohibits an applicant for a prescribed pediatric extended care center license from providing services under an initial, renewal, or temporary license until DADS issues the license.

C.S.H.B. 2340 specifies that the parent, legal guardian, or managing conservator of a minor client of a center is not required to accompany the client when the client receives services in the center, including therapy services delivered in the center but billed separately, or when the center transports or provides for the transport of the client to and from the center. The bill requires the 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 are medically necessary.

C.S.H.B. 2340 requires the executive commissioner of the Health and Human Services Commission, not later than September 1, 2016, to adopt the rules necessary to implement the bill's provisions. The bill requires the executive commissioner, as soon as practicable after the bill's effective date, to establish a reimbursement rate for licensed pediatric extended care centers that are enrolled in Medicaid that, when converted to an hourly rate, is not more than 70 percent of the average hourly unit rate for private duty nursing provided under the Texas Health Steps Comprehensive Care Program. The bill applies only to a temporary license application submitted to or an inspection conducted by DADS on or after September 1, 2016.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2340 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 248A.051(a), Health and Safety Code, is amended to read as follows:

(a) A person may not own or operate a prescribed pediatric extended care center in this state unless the person holds a license issued under this chapter. An applicant for a prescribed pediatric extended care center license may not provide services under that license until the department issues the license.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 248A.051(a) and (b), Health and Safety Code, are amended to read as follows:

(a) A person may not own or operate a prescribed pediatric extended care center in this state unless the person holds an initial, renewal, or temporary [a] license issued under this chapter. An applicant for a prescribed pediatric extended care center license may not provide services under that license until the department issues the license.

(b) A separate initial, renewal, or temporary license is required for each center located on separate premises, regardless of whether the centers are under the ownership or operation of the same person.

SECTION 2. Section 248A.052, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) The department shall conduct concurrently the inspections necessary to determine if the applicant and the center meet the requirements of this chapter and the rules and standards adopted under this chapter. The department may not require that a center admit a child as a prerequisite for any inspection.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 2. The heading to Section 248A.052, Health and Safety Code, is amended to read as follows:

Sec. 248A.052. INITIAL LICENSE APPLICATION; ISSUANCE.

SECTION 3. Section 248A.052(a), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and Section 248A.052(c), Health and Safety Code, are amended to read as follows:

(a) An applicant for an initial [a] prescribed pediatric extended care center license shall submit to the department in accordance with department rules:

- (1) a sworn application on the form prescribed by the department;
- (2) a letter of credit as prescribed by the department to demonstrate the applicant's financial viability; and
- (3) the required fees.

(c) The department shall issue an initial [a] license to a center under this chapter if the department determines that the applicant and the center meet the requirements of this chapter and the rules and standards adopted under this chapter. The license must include:

- (1) the license holder's name;
- (2) the location of the premises of the center; and
- (3) a statement indicating the center provides services to minors for 12 hours or less in a 24-hour period and does not provide 24-hour care.

SECTION 4. Subchapter B, Chapter

248A, Health and Safety Code, is amended by adding Section 248A.0525 to read as follows:

Sec. 248A.0525. TEMPORARY LICENSE PROCEDURES. (a) An applicant for an initial license under Section 248A.052 may request, in the manner prescribed by the department and in accordance with this section, that the department issue a temporary license pending the department's review of the applicant's application for an initial license. An applicant is not required to request a temporary license to receive an initial or renewal license.

(b) A temporary license issued under this section authorizes an applicant to provide nonresidential basic services to not more than six minors until the temporary license expires or terminates in accordance with this section.

(c) On receipt of a temporary license request, the department shall conduct a review of the applicant's policies, procedures, and staffing plans to serve minors in the center.

(d) The department shall grant an applicant's request for a temporary license if the department determines the applicant is eligible for the license as provided by this subsection. The department may not grant a request for a temporary license if the department determines the applicant is ineligible for the license under this subsection. An applicant is eligible for a temporary license only if the applicant meets:

(1) the license application requirements of Sections 248A.052(a) and (b) and the license application rules adopted under this chapter;

(2) the building requirements and standards for a center provided in department rules adopted under this chapter; and

(3) the requirements of the department's review conducted under Subsection (c).

(e) A temporary license issued under this section expires on the earlier of:

(1) the 90th day after the date the temporary license is issued or the last day of any extension period granted by the department; or

(2) the date an initial license is issued under Section 248A.052.

(f) The department may not grant more than one extension of a temporary license issued under this section and may not grant an extension for a period that exceeds 90 days. The department shall grant an extension if a temporary license holder submits to the department an extension request in the manner prescribed by the department not later than the 30th day before the date the temporary license expires.

(g) A temporary license holder must comply with this chapter and the rules adopted under this chapter for the period for which the temporary license is issued, including an extension, if applicable. The department may take an enforcement action against a temporary license holder for failure to comply with this chapter and the rules adopted under this chapter.

(h) The department may conduct a complaint investigation and inspection of a temporary license holder.

No equivalent provision.

SECTION 5. The heading to Section 248A.053, Health and Safety Code, is amended to read as follows:

Sec. 248A.053. INITIAL OR RENEWAL LICENSE TERM; RENEWAL; NOTIFICATION.

No equivalent provision.

SECTION 6. Section 248A.053(a), Health and Safety Code, is amended to read as follows:

(a) An initial or renewal [A] license issued under this chapter expires on the second anniversary of the date of issuance.

SECTION 3. The heading to Section 248A.151, Health and Safety Code, is amended.

SECTION 7. Same as introduced version.

SECTION 4. Section 248A.151, Health and Safety Code, is amended.

SECTION 8. Same as introduced version.

No equivalent provision.

SECTION 9. Subchapter D, Chapter 248A, Health and Safety Code, is amended by adding Section 248A.158 to read as follows:

Sec. 248A.158. RELATION TO

NURSING SERVICES. Nursing services provided by a center must be a one-to-one replacement of private duty nursing or other skilled nursing services unless additional nursing services are medically necessary.

No equivalent provision.

SECTION 5. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall establish a reimbursement rate for licensed pediatric extended care centers that are enrolled in the medical assistance program that, when converted to an hourly rate, is not more than 70 percent of the average hourly unit rate, excluding transportation costs, for private duty nursing provided under the Texas Health Steps Comprehensive Care Program.

SECTION 6. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

No equivalent provision.

SECTION 7. This Act takes effect September 1, 2015.

SECTION 10. Not later than September 1, 2016, the executive commissioner of the Health and Human Services Commission shall adopt the rules necessary to implement Chapter 248A, Health and Safety Code, as amended by this Act.

SECTION 11. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall establish a reimbursement rate for licensed pediatric extended care centers that are enrolled in the medical assistance program that, when converted to an hourly rate, is not more than 70 percent of the average hourly unit rate for private duty nursing provided under the Texas Health Steps Comprehensive Care Program.

SECTION 12. Same as introduced version.

SECTION 13. The changes in law made by this Act related to temporary licenses apply only to a temporary license application submitted to or an inspection conducted by the Department of Aging and Disability Services on or after September 1, 2016.

SECTION 14. Same as introduced version.

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