

## **BILL ANALYSIS**

C.S.H.B. 2025  
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Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties expressed concern regarding the lack of staff members at certain health care facilities that provide care to individuals with Alzheimer's disease or dementia who have training or experience in providing care to such individuals. C.S.H.B. 2025 seeks to address this concern by providing staff requirements for such facilities.

### **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 rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 of this bill.

### **ANALYSIS**

C.S.H.B. 2025 amends the Health and Safety Code to require certain types of facilities to adopt, implement, and enforce a written policy that requires a facility employee who provides direct care to a person with Alzheimer's disease or a related disorder to successfully complete training in the provision of care to persons with Alzheimer's disease and related disorders and that ensures the care and services provided by a facility employee to such a person meet the specific identified needs of the person relating to the person's diagnosis of Alzheimer's disease or a related disorder. The bill applies to a licensed nursing facility, a regulated continuing care facility, a licensed assisted living facility, a licensed day activity and health services facility, an establishment subject to Human Resources Code provisions relating to residential facilities for persons with disabilities or who are elderly, a qualified community home for persons with disabilities, and an adult foster care provider that contracts with the Health and Human Services Commission (HHSC).

C.S.H.B. 2025 authorizes HHSC to assess an administrative penalty against a facility for a violation of the requirement to adopt, implement, and enforce such a written policy and establishes that HHSC is not required to provide a facility an opportunity to correct a second or subsequent violation of the requirement that occurs before the second anniversary of the date of the first violation. The bill establishes that a violation of the requirement constitutes a violation of the law regulating a facility and authorizes HHSC to initiate for the violation any other enforcement action authorized by that law against the facility, including an adult foster care facility with three or fewer beds. The bill requires the executive commissioner of HHSC to adopt rules related to the administration and implementation of the bill's provisions regarding staffing requirements for certain facilities. Those provisions expressly do not affect the terms of a contract entered into before the bill's effective date unless the contract is renewed, modified, or extended on or after that date, in which case the provisions apply to the contract beginning on the

date of renewal, modification, or extension.

C.S.H.B. 2025 amends the Human Resources Code to make a conforming change.

**EFFECTIVE DATE**

September 1, 2017.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2025 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**

No equivalent provision.

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 242.0665(b), Health and Safety Code, is amended to read as follows:

- (b) Subsection (a) does not apply:
  - (1) to a violation that the department determines:
    - (A) results in serious harm to or death of a resident;
    - (B) constitutes a serious threat to the health or safety of a resident; or
    - (C) substantially limits the institution's capacity to provide care;
  - (2) to a violation described by Sections 242.066(a)(2)-(7);
  - (3) to a violation of Section 260A.014 or 260A.015; [ø]
  - (4) to a violation of a right of a resident adopted under Subchapter L; or
  - (5) to a second or subsequent violation of Section 326.002 that occurs before the second anniversary of the date of the first violation.

No equivalent provision.

SECTION 2. Section 247.0452(b), Health and Safety Code, is amended to read as follows:

- (b) Subsection (a) does not apply:
  - (1) to a violation that the department determines results in serious harm to or death of a resident;
  - (2) to a violation described by Sections 247.0451(a)(2)-(7) or a violation of Section 260A.014 or 260A.015;
  - (3) to a second or subsequent violation of:
    - (A) a right of the same resident under Section 247.064; or
    - (B) the same right of all residents under Section 247.064; [ø]

SECTION 1. Subtitle G, Title 4, Health and Safety Code, is amended by adding Chapter 326 to read as follows:

CHAPTER 326. STAFF REQUIREMENTS FOR FACILITIES PROVIDING CARE TO PERSONS WITH ALZHEIMER'S DISEASE OR DEMENTIA

Sec. 326.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Facility" means:

(A) a nursing facility or other institution licensed under Chapter 242;

(B) a continuing care facility regulated under Chapter 246;

(C) an assisted living facility licensed under Chapter 247;

(D) a day activity and health services facility licensed under Chapter 103, Human Resources Code;

(E) an establishment subject to Chapter 105, Human Resources Code;

(F) a community home qualified under Chapter 123, Human Resources Code; and

(G) an adult foster care provider that contracts with the commission.

Sec. 326.002. STAFF REQUIREMENTS.

A facility that provides care to a person with Alzheimer's disease or dementia shall employ at least one individual who:

(1) has training or experience in providing care to persons with Alzheimer's disease or dementia; and

(2) is able to provide adequate treatment and care for the person.

Sec. 326.003. ENFORCEMENT. If a

(4) to a violation described by Section 247.066, which contains its own right to correct provisions; or

(5) to a second or subsequent violation of Section 326.002 that occurs before the second anniversary of the date of the first violation.

SECTION 3. Subtitle G, Title 4, Health and Safety Code, is amended by adding Chapter 326 to read as follows:

CHAPTER 326. STAFFING REQUIREMENTS FOR FACILITIES PROVIDING CARE TO PERSONS WITH ALZHEIMER'S DISEASE OR RELATED DISORDERS

Sec. 326.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Facility" means:

(A) a nursing facility licensed under Chapter 242;

(B) a continuing care facility regulated under Chapter 246;

(C) an assisted living facility licensed under Chapter 247;

(D) a day activity and health services facility licensed under Chapter 103, Human Resources Code;

(E) an establishment subject to Chapter 105, Human Resources Code;

(F) a community home qualified under Chapter 123, Human Resources Code; and

(G) an adult foster care provider that contracts with the commission.

Sec. 326.002. WRITTEN POLICY REQUIRED. A facility shall adopt, implement, and enforce a written policy that:

(1) requires a facility employee who provides direct care to a person with Alzheimer's disease or a related disorder to successfully complete training in the provision of care to persons with Alzheimer's disease and related disorders; and

(2) ensures the care and services provided by a facility employee to a person with Alzheimer's disease or a related disorder meet the specific identified needs of the person relating to the person's diagnosis of Alzheimer's disease or a related disorder.

Sec. 326.003. ENFORCEMENT. (a) The

facility that is licensed or regulated by or contracts with the commission or another state agency violates this chapter, the commission or appropriate agency shall, as applicable:

- (1) revoke the license issued to the facility;
- (2) revoke the facility's certificate of authority or any other permission issued by the commission or state agency for the facility to operate; or
- (3) revoke, suspend, or refuse to renew a contract between the commission or state agency and the facility.

No equivalent provision.

SECTION 2. Chapter 326, Health and Safety Code, as added by this Act, does not affect the terms of a contract entered into before the effective date of this Act, except that if the contract is renewed, modified, or extended on or after the effective date of this Act, Chapter 326 applies to the contract beginning on the date of renewal, modification, or extension.

SECTION 3. This Act takes effect

commission may assess an administrative penalty against a facility for a violation of Section 326.002.

(b) The commission is not required to provide a facility an opportunity to correct a second or subsequent violation of Section 326.002 that occurs before the second anniversary of the date of the first violation.

(c) A violation of Section 326.002 constitutes a violation of the law regulating a facility, and the commission may initiate for the violation any other enforcement action authorized by that law against the facility, including an adult foster care facility with three or fewer beds.

Sec. 326.004. RULES. The executive commissioner shall adopt rules related to the administration and implementation of this chapter.

SECTION 4. Section 103.013(b), Human Resources Code, is amended to read as follows:

(b) Subsection (a) does not apply to:

(1) a violation that the department determines:

(A) results in serious harm to or death of a person attending the facility;

(B) constitutes a serious threat to the health and safety of a person attending the facility; or

(C) substantially limits the facility's capacity to provide care;

(2) a violation described by Sections 103.012(a)(2)-(7); ~~[or]~~

(3) a violation of Section 103.011; or

(4) a second or subsequent violation of Section 326.002 that occurs before the second anniversary of the date of the first violation.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

September 1, 2017.

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