

1-1 By: Menéndez S.B. No. 1999
 1-2 (In the Senate - Filed March 13, 2015; March 25, 2015, read
 1-3 first time and referred to Committee on Health and Human Services;
 1-4 April 20, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 20, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1999 By: Rodríguez

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to day activity and health services facilities.
 1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-23 SECTION 1. Section 531.951(a), Government Code, is amended
 1-24 to read as follows:
 1-25 (a) This subchapter applies only to the final licensing,
 1-26 listing, or registration decisions of a health and human services
 1-27 agency with respect to a person under the law authorizing the agency
 1-28 to regulate the following types of persons:
 1-29 (1) a youth camp licensed under Chapter 141, Health
 1-30 and Safety Code;
 1-31 (2) a home and community support services agency
 1-32 licensed under Chapter 142, Health and Safety Code;
 1-33 (3) a hospital licensed under Chapter 241, Health and
 1-34 Safety Code;
 1-35 (4) an institution licensed under Chapter 242, Health
 1-36 and Safety Code;
 1-37 (5) an assisted living facility licensed under Chapter
 1-38 247, Health and Safety Code;
 1-39 (6) a special care facility licensed under Chapter
 1-40 248, Health and Safety Code;
 1-41 (7) an intermediate care facility licensed under
 1-42 Chapter 252, Health and Safety Code;
 1-43 (8) a chemical dependency treatment facility licensed
 1-44 under Chapter 464, Health and Safety Code;
 1-45 (9) a mental hospital or mental health facility
 1-46 licensed under Chapter 577, Health and Safety Code;
 1-47 (10) a child-care facility or child-placing agency
 1-48 licensed under or a family home listed or registered under Chapter
 1-49 42, Human Resources Code; or
 1-50 (11) a day activity and health services [~~an adult~~
 1-51 ~~day-care~~] facility licensed under Chapter 103, Human Resources
 1-52 Code.
 1-53 SECTION 2. Section 81.042(e), Health and Safety Code, is
 1-54 amended to read as follows:
 1-55 (e) The following persons shall report to the local health
 1-56 authority or the department a suspected case of a reportable
 1-57 disease and all information known concerning the person who has or
 1-58 is suspected of having the disease if a report is not made as
 1-59 required by Subsections (a)-(d):
 1-60 (1) a professional registered nurse;

- 2-1 (2) an administrator or director of a public or
- 2-2 private temporary or permanent child-care facility;
- 2-3 (3) an administrator or director of a nursing home,
- 2-4 personal care home, adult respite care center, or day activity and
- 2-5 health services facility [~~adult day-care center~~];
- 2-6 (4) an administrator of a home health agency;
- 2-7 (5) an administrator or health official of a public or
- 2-8 private institution of higher education;
- 2-9 (6) an owner or manager of a restaurant, dairy, or
- 2-10 other food handling or processing establishment or outlet;
- 2-11 (7) a superintendent, manager, or health official of a
- 2-12 public or private camp, home, or institution;
- 2-13 (8) a parent, guardian, or householder;
- 2-14 (9) a health professional;
- 2-15 (10) an administrator or health official of a penal or
- 2-16 correctional institution; or
- 2-17 (11) emergency medical service personnel, a peace
- 2-18 officer, or a firefighter.

2-19 SECTION 3. Section 164.003(5), Health and Safety Code, as
2-20 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
2-21 Session, 2015, is amended to read as follows:

- 2-22 (5) "Mental health facility" means:
- 2-23 (A) a "mental health facility" as defined by
- 2-24 Section 571.003;
- 2-25 (B) a residential treatment facility, other than
- 2-26 a mental health facility, in which persons are treated for
- 2-27 emotional problems or disorders in a 24-hour supervised living
- 2-28 environment; and
- 2-29 (C) a day activity and health services [~~an adult~~
- 2-30 ~~day-care~~] facility as defined by Section 103.003, Human Resources
- 2-31 Code.

2-32 SECTION 4. Section 250.001(3), Health and Safety Code, as
2-33 reenacted and amended by S.B. No. 219, Acts of the 84th
2-34 Legislature, Regular Session, 2015, is amended to read as follows:

- 2-35 (3) "Facility" means:
- 2-36 (A) a nursing facility, custodial care home, or
- 2-37 other institution licensed by the Department of Aging and
- 2-38 Disability Services under Chapter 242;
- 2-39 (B) an assisted living facility licensed by the
- 2-40 Department of Aging and Disability Services under Chapter 247;
- 2-41 (C) a home and community support services agency
- 2-42 licensed under Chapter 142;
- 2-43 (D) a day activity and health services [~~an adult~~
- 2-44 ~~day-care~~] facility licensed by the Department of Aging and
- 2-45 Disability Services under Chapter 103, Human Resources Code;
- 2-46 (E) an ICF-IID licensed under Chapter 252;
- 2-47 (F) an adult foster care provider that contracts
- 2-48 with the Department of Aging and Disability Services;
- 2-49 (G) a facility that provides mental health
- 2-50 services and that is operated by or contracts with the Department of
- 2-51 State Health Services;
- 2-52 (H) a local mental health authority designated
- 2-53 under Section 533.035 or a local intellectual and developmental
- 2-54 disability authority designated under Section 533.035;
- 2-55 (I) a person exempt from licensing under Section
- 2-56 142.003(a)(19);
- 2-57 (J) a special care facility licensed by the
- 2-58 Department of State Health Services under Chapter 248;
- 2-59 (K) a mental health service unit of a hospital
- 2-60 licensed under Chapter 241; or
- 2-61 (L) a prescribed pediatric extended care center
- 2-62 licensed by the Department of Aging and Disability Services under
- 2-63 Chapter 248A.

2-64 SECTION 5. The heading to Chapter 103, Human Resources
2-65 Code, is amended to read as follows:

2-66 CHAPTER 103. DAY ACTIVITY AND HEALTH SERVICES [~~ADULT DAY CARE~~]

2-67 SECTION 6. Section 103.001, Human Resources Code, as
2-68 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
2-69 Session, 2015, and Section 103.002, Human Resources Code, are

3-1 amended to read as follows:

3-2 Sec. 103.001. PURPOSE. It is the purpose of this chapter to
 3-3 establish programs of quality day activity and health services
 3-4 [~~adult day care and day health care~~] that will enable persons with
 3-5 disabilities who have medical or functional impairments and elderly
 3-6 persons to maintain maximum independence and to prevent premature
 3-7 or inappropriate institutionalization. It is the purpose of this
 3-8 chapter to provide adequately regulated supervision for elderly
 3-9 persons and persons with disabilities while enabling them to remain
 3-10 in a family environment and affording the family a measure of
 3-11 normality in its daily activities. The legislature intends to
 3-12 provide for the development of policies and programs that will:

3-13 (1) provide alternatives to institutionalization;

3-14 (2) establish facilities for day activity and health
 3-15 services [~~adult day care and day health care~~] throughout the state
 3-16 that offer services and are accessible to economically
 3-17 disadvantaged persons; and

3-18 (3) prevent inappropriate institutionalization.

3-19 Sec. 103.002. SHORT TITLE. This chapter may be cited as the
 3-20 Day Activity and Health Services [~~Adult Day Care~~] Act.

3-21 SECTION 7. Section 103.003(1), Human Resources Code, as
 3-22 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
 3-23 Session, 2015, and Section 103.003(2), Human Resources Code, are
 3-24 amended to read as follows:

3-25 (1) "Day activity and health services [~~Adult day-care~~]
 3-26 facility" means a facility that provides services under a day
 3-27 activity and health services [~~an adult day-care~~] program on a daily
 3-28 or regular basis but not overnight to four or more elderly persons
 3-29 or persons with disabilities who are not related by blood,
 3-30 marriage, or adoption to the owner of the facility.

3-31 (2) "Day activity and health services [~~Adult day-care~~]
 3-32 program" means a structured, comprehensive program that is designed
 3-33 to meet the needs of adults with functional impairments through an
 3-34 individual plan of care by providing health, social, and related
 3-35 support services in a protective setting.

3-36 SECTION 8. Section 103.0041(a), Human Resources Code, is
 3-37 amended to read as follows:

3-38 (a) A person may not operate a day activity and health
 3-39 services [~~an adult day-care~~] facility without a license issued
 3-40 under this chapter.

3-41 SECTION 9. Section 103.006(a), Human Resources Code, is
 3-42 amended to read as follows:

3-43 (a) The department shall issue a license to operate a day
 3-44 activity and health services [~~an adult day-care~~] facility to a
 3-45 person who has met the application requirements and received
 3-46 approval after an on-site inspection.

3-47 SECTION 10. Section 103.007(a), Human Resources Code, is
 3-48 amended to read as follows:

3-49 (a) An applicant for a license to operate a day activity and
 3-50 health services [~~an adult day-care~~] facility must file an
 3-51 application on a form prescribed by the department together with a
 3-52 license fee of \$50.

3-53 SECTION 11. Section 103.0075(a), Human Resources Code, as
 3-54 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
 3-55 Session, 2015, is amended to read as follows:

3-56 (a) The executive commissioner by rule shall adopt a
 3-57 procedure under which a person proposing to construct or modify a
 3-58 day activity and health services [~~an adult day-care~~] facility may
 3-59 submit building plans to the department for review for compliance
 3-60 with the department's architectural requirements before beginning
 3-61 construction or modification. In adopting the procedure, the
 3-62 executive commissioner shall set reasonable deadlines by which the
 3-63 department must complete review of submitted plans.

3-64 SECTION 12. Section 103.0091(a), Human Resources Code, is
 3-65 amended to read as follows:

3-66 (a) The department may petition a district court for a
 3-67 temporary restraining order to restrain a continuing violation of
 3-68 the standards or licensing requirements provided under this chapter
 3-69 if the department finds that the violation creates an immediate

4-1 threat to the health and safety of the day activity and health
4-2 services facility [~~adult day-care~~] residents.

4-3 SECTION 13. Section 103.0092(a), Human Resources Code, is
4-4 amended to read as follows:

4-5 (a) If the department finds a day activity and health
4-6 services [~~an adult day-care~~] facility operating in violation of the
4-7 standards prescribed by this chapter and the violations create an
4-8 immediate threat to the health and safety of a resident in the
4-9 facility, the department shall suspend the license or order
4-10 immediate closing of all or part of the facility.

4-11 SECTION 14. Section 103.011, Human Resources Code, is
4-12 amended to read as follows:

4-13 Sec. 103.011. RIGHTS OF THE ELDERLY. (a) In addition to
4-14 other rights an individual attending a day activity and health
4-15 services [~~an adult day-care~~] facility has as a citizen, an
4-16 individual who is 55 years of age or older has the rights prescribed
4-17 by Chapter 102 of this code.

4-18 (b) The department shall require each day activity and
4-19 health services [~~adult day-care~~] facility to implement and enforce
4-20 the applicable provisions of Chapter 102 of this code.

4-21 SECTION 15. Section 103.012(a), Human Resources Code, is
4-22 amended to read as follows:

4-23 (a) The department may assess an administrative penalty
4-24 against a person who:

4-25 (1) violates this chapter, a rule, standard, or order
4-26 adopted under this chapter, or a term of a license issued under this
4-27 chapter;

4-28 (2) makes a false statement of a material fact that the
4-29 person knows or should know is false:

4-30 (A) on an application for issuance or renewal of
4-31 a license or in an attachment to the application; or

4-32 (B) with respect to a matter under investigation
4-33 by the department;

4-34 (3) refuses to allow a representative of the
4-35 department to inspect:

4-36 (A) a book, record, or file required to be
4-37 maintained by a day activity and health services [~~an adult~~
4-38 ~~day-care~~] facility; or

4-39 (B) any portion of the premises of a day activity
4-40 and health services [~~an adult day-care~~] facility;

4-41 (4) wilfully interferes with the work of a
4-42 representative of the department or the enforcement of this
4-43 chapter;

4-44 (5) wilfully interferes with a representative of the
4-45 department preserving evidence of a violation of this chapter, a
4-46 rule, standard, or order adopted under this chapter, or a term of a
4-47 license issued under this chapter;

4-48 (6) fails to pay a penalty assessed under this chapter
4-49 not later than the 30th day after the date the assessment of the
4-50 penalty becomes final; or

4-51 (7) fails to notify the department of a change of
4-52 ownership before the effective date of the change of ownership.

4-53 SECTION 16. Sections 103.013(a) and (c), Human Resources
4-54 Code, are amended to read as follows:

4-55 (a) The department may not collect an administrative
4-56 penalty from a day activity and health services [~~an adult day-care~~]
4-57 facility under Section 103.012 if, not later than the 45th day after
4-58 the date the facility receives notice under Section 103.014(c), the
4-59 facility corrects the violation.

4-60 (c) A day activity and health services [~~An adult day-care~~]
4-61 facility that corrects a violation must maintain the correction.
4-62 If the facility fails to maintain the correction until at least the
4-63 first anniversary after the date the correction was made, the
4-64 department may assess and collect an administrative penalty for the
4-65 subsequent violation. An administrative penalty assessed under
4-66 this subsection is equal to three times the amount of the original
4-67 penalty assessed but not collected. The department is not required
4-68 to provide the facility with an opportunity under this section to
4-69 correct the subsequent violation.

5-1 SECTION 17. Sections 103.014(c) and (e), Human Resources
5-2 Code, are amended to read as follows:

5-3 (c) The department shall give written notice of the report
5-4 to the person charged with the violation not later than the 10th day
5-5 after the date on which the report is issued. The notice must
5-6 include:

- 5-7 (1) a brief summary of the charges;
- 5-8 (2) a statement of the amount of penalty recommended;
- 5-9 (3) a statement of whether the violation is subject to
5-10 correction under Section 103.013 and, if the violation is subject
5-11 to correction under that section, a statement of:

5-12 (A) the date on which the day activity and health
5-13 services [~~adult day-care~~] facility must file a plan of correction
5-14 with the department that the department shall review and may
5-15 approve, if satisfactory; and

5-16 (B) the date on which the plan of correction must
5-17 be completed to avoid assessment of the penalty; and

5-18 (4) a statement that the person charged has a right to
5-19 a hearing on the occurrence of the violation, the amount of the
5-20 penalty, or both.

5-21 (e) If the violation is subject to correction under Section
5-22 103.013, the day activity and health services [~~adult day-care~~]
5-23 facility shall submit a plan of correction to the department for
5-24 approval not later than the 10th day after the date on which the
5-25 notice under Subsection (c) is received.

5-26 SECTION 18. Section 161.151(2), Human Resources Code, is
5-27 amended to read as follows:

5-28 (2) "Respite services" means support services,
5-29 including in-home services or day activity and health [~~adult~~
5-30 ~~day-care~~] services, that are provided for the purpose of
5-31 temporarily giving relief to a primary caregiver who provides care
5-32 to an individual with a chronic serious health condition or
5-33 disability.

5-34 SECTION 19. This Act takes effect immediately if it
5-35 receives a vote of two-thirds of all the members elected to each
5-36 house, as provided by Section 39, Article III, Texas Constitution.
5-37 If this Act does not receive the vote necessary for immediate
5-38 effect, this Act takes effect September 1, 2015.

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