

AN ACT

relating to informal dispute resolutions for violations of health and safety standards at certain long-term care facilities; authorizing the imposition of costs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 247.051, Health and Safety Code, is amended by amending Subsections (a), (c), and (d) and adding Subsection (e) to read as follows:

(a) The executive commissioner by rule shall establish an informal dispute resolution process to address disputes between an assisted living ~~[a]~~ facility and the commission ~~[department]~~ concerning a statement of violations prepared by the commission ~~[department]~~ in accordance with this section. The process must provide for adjudication by an appropriate disinterested person of disputes relating to a statement of violations. The informal dispute resolution process must require:

(1) the assisted living facility to request informal dispute resolution not later than the 10th day after the date of notification by the commission ~~[department]~~ of the violation of a standard or standards;

(2) that the ~~[commission to complete the]~~ process be completed not later than the 90th day after the date of receipt of a request from the assisted living facility for informal dispute resolution;

1           (3) that, not later than the 20th [~~10th~~] business day  
2 after the date an assisted living facility requests an informal  
3 dispute resolution, the commission [~~department~~] forward to the  
4 assisted living facility a copy of all information referenced [~~that~~  
5 ~~is referred to~~] in the disputed statement of violations or on which  
6 a citation is based in connection with the survey, inspection,  
7 investigation, or other visit, including any notes taken by or  
8 e-mails or messages sent by a commission employee involved with the  
9 survey, inspection, investigation, or other visit and excluding the  
10 following information:

11                   (A) the name of any complainant, witness, or  
12 informant, which must be redacted from information provided to the  
13 assisted living facility;

14                   (B) any information that would reasonably lead to  
15 the identification of a complainant, witness, or informant, which  
16 must be redacted from information provided to the assisted living  
17 facility;

18                   (C) information obtained from or contained in the  
19 records of the facility;

20                   (D) information that is publicly available; or

21                   (E) information that is confidential by law;

22           (4) that [~~the commission to give~~] full consideration  
23 is given to all factual arguments raised during the informal  
24 dispute resolution process [~~that:~~

25                   [~~(A) are supported by references to specific~~  
26 ~~information that the facility or department relies on to dispute or~~  
27 ~~support findings in the statement of violations, and~~

1                    [~~(B)~~ are provided by the proponent of the  
2 argument to the commission and the opposing party];

3                    (5) that full consideration is given during the  
4 informal dispute resolution process [~~staff give full~~  
5 ~~consideration~~] to the information provided by the assisted living  
6 facility and the commission [~~department~~];

7                    (6) that ex parte communications concerning the  
8 substance of any argument relating to a survey, inspection,  
9 investigation, visit, or statement of violations under  
10 consideration not occur between the informal dispute resolution  
11 staff and the assisted living facility or the commission  
12 [~~department~~]; [~~and~~]

13                    (7) that the assisted living facility and the  
14 commission [~~department~~] be given a reasonable opportunity to submit  
15 arguments and information supporting the position of the assisted  
16 living facility or the commission [~~department~~] and to respond to  
17 arguments and information presented against them, provided the  
18 assisted living facility submits its arguments and supporting  
19 information not later than the 10th business day after the date of  
20 receipt of the materials provided under Subdivision (3); and

21                    (8) that the commission bears the burden of proving  
22 the violation of a standard or standards.

23                    (c) An assisted living facility requesting an informal  
24 dispute resolution under this section must reimburse the commission  
25 [~~department~~] for any costs associated with the commission's  
26 [~~department's~~] preparation, copying, and delivery of information  
27 requested by the facility.

1 (d) A statement of violations prepared by the commission  
2 [~~department~~] following a survey, inspection, investigation, or  
3 visit is confidential pending the outcome of the informal dispute  
4 resolution process. Information concerning the outcome of a  
5 survey, inspection, investigation, or visit may be posted on any  
6 website maintained by the commission [~~department~~] while the dispute  
7 is pending if the posting clearly notes each finding that is in  
8 dispute.

9 (e) The commission may charge and the assisted living  
10 facility shall pay the reasonable costs associated with making the  
11 redactions required by Subsections (a)(3)(A) and (B).

12 SECTION 2. Section 531.058, Government Code, is amended by  
13 amending Subsections (a) and (a-1) and adding Subsection (d) to  
14 read as follows:

15 (a) The executive commissioner by rule shall establish an  
16 informal dispute resolution process in accordance with this  
17 section. The process must provide for adjudication by an  
18 appropriate disinterested person of disputes relating to a proposed  
19 enforcement action or related proceeding of the commission under  
20 Section 32.021(d), Human Resources Code, or [~~the Department of~~  
21 ~~Aging and Disability Services~~] under Chapter 242, 247, or 252,  
22 Health and Safety Code. The informal dispute resolution process  
23 must require:

24 (1) an institution or facility to request informal  
25 dispute resolution not later than the 10th calendar day after  
26 notification by the commission [~~or department, as applicable,~~] of  
27 the violation of a standard or standards; and

1           (2) the completion of [~~commission to complete~~] the  
2 process not later than:

3           (A) the 30th calendar day after receipt of a  
4 request from an institution or facility, other than an assisted  
5 living facility, for informal dispute resolution; or

6           (B) the 90th calendar day after receipt of a  
7 request from an assisted living facility for informal dispute  
8 resolution.

9           (a-1) As part of the informal dispute resolution process  
10 established under this section, the commission shall contract with  
11 an appropriate disinterested person [~~who is a nonprofit~~  
12 ~~organization~~] to adjudicate disputes between an institution or  
13 facility licensed under Chapter 242, Health and Safety Code, or a  
14 facility licensed under Chapter 247, Health and Safety Code, and  
15 the commission [~~Department of Aging and Disability Services~~]  
16 concerning a statement of violations prepared by the commission  
17 [~~department~~] in connection with a survey conducted by the  
18 commission [~~department~~] of the institution or facility. Section  
19 2009.053 does not apply to the selection of an appropriate  
20 disinterested person under this subsection. The person with whom  
21 the commission contracts shall adjudicate all disputes described by  
22 this subsection.

23           (d) The rules adopted by the executive commissioner under  
24 Subsection (a) that relate to a dispute described by Section  
25 247.051(a), Health and Safety Code, must incorporate the  
26 requirements of Section 247.051, Health and Safety Code.

27           SECTION 3. This Act takes effect September 1, 2017.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 924 passed the Senate on April 19, 2017, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 25, 2017, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 924 passed the House, with amendment, on May 19, 2017, by the following vote: Yeas 144, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor