

HEALTH & SAFETY CODE
CHAPTER 222. HEALTH CARE FACILITY SURVEY, CONSTRUCTION,
INSPECTION, AND REGULATION

SUBCHAPTER A. SURVEY AND CONSTRUCTION OF HOSPITALS

Sec. 222.001. SHORT TITLE. This subchapter may be cited as the Texas Hospital Survey and Construction Act.
Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 222.002. DEFINITIONS. In this subchapter:

(1) "Board" means the Texas Board of Health.
(2) "Commissioner" means the commissioner of health.
(3) "Department" means the Texas Department of Health.
(4) "Hospital" includes a public health center, a general hospital, or a tuberculosis, mental, chronic disease, or other type of hospital, and related facilities such as a laboratory, outpatient department, nurses' home and training facility, or central service facility operated in connection with a hospital.

(5) "Public health center" means a publicly owned facility for providing public health services and includes related facilities such as a laboratory, clinic, or administrative office operated in connection with a facility for providing public health services.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 222.003. EXCEPTION. This subchapter does not apply to a hospital furnishing primarily domiciliary care.
Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 222.004. DIVISION OF HOSPITAL SURVEY AND CONSTRUCTION. (a) The division of hospital survey and construction is a division of the department.

(b) The division is administered by a full-time salaried director appointed by the commissioner and under the supervision and direction of the board.

(c) The commissioner shall appoint other personnel of the division.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 222.005. SURVEY, PLANNING, AND CONSTRUCTION OF HOSPITALS. (a) The department, through the division of hospital survey and construction, is the only agency of the state authorized to make an inventory of existing hospitals, survey the need for construction of hospitals, and develop a program of hospital construction as provided by the federal Hospital Survey and Construction Act (42 U.S.C. Section 291 et seq.).

(b) The board may establish methods of administration and adopt rules to meet the requirements of the federal Hospital Survey and Construction Act relating to survey, planning, and construction of hospitals and public health centers.

(c) The commissioner shall:

(1) require reports, make inspections and investigations, and prescribe rules as the commissioner considers necessary; and

(2) take other action that the commissioner considers necessary to carry out the federal Hospital Survey and Construction Act and the regulations adopted under that Act.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 222.006. FUNDING. (a) The commissioner shall accept, on behalf of the state, a payment of federal funds or a gift or grant made to assist in meeting the cost of carrying out the purpose of this subchapter, and may spend the payment, gift, or grant for that purpose.

(b) The commissioner shall deposit the payment, gift, or grant in the state treasury to the credit of the hospital construction fund.

(c) The commissioner shall deposit to the credit of the hospital construction fund money received from the federal government for a construction project approved by the surgeon general of the United States Public Health Service. The commissioner shall use the money only for payments to applicants for work performed and purchases made in carrying out approved projects.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 222.007. AGREEMENTS FOR USE OF FACILITIES AND SERVICES OF OTHER ENTITIES. To the extent the commissioner considers desirable to carry out the purposes of this subchapter, the commissioner may enter into an agreement for the use of a facility or service of another public or private department, agency, or

institution.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 222.008. EXPERTS AND CONSULTANTS. The commissioner may contract for services of experts or consultants, or organizations of experts or consultants, on a part-time or fee-for-service basis. The contracts may not involve the performance of administrative duties.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 222.009. COMMISSIONER'S REPORT. (a) The commissioner annually shall report to the board on activities and expenditures under this subchapter.

(b) The commissioner shall include in the report recommendations for additional legislation that the commissioner considers appropriate to furnish adequate hospital, clinic, and similar facilities to the public.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. LIMITATION ON INSPECTION AND OTHER REGULATION OF HEALTH CARE FACILITIES

Sec. 222.021. PURPOSE. The purpose of this subchapter is to require that state agencies that perform inspections of health care facilities, including the Texas Department of Health, the Texas Department of Human Services, the Texas Department of Mental Health and Mental Retardation, and other agencies with which each of those agencies contracts, do not duplicate their procedures or subject health care facilities to duplicative rules.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 222.022. DEFINITIONS. In this subchapter:

(1) "Health care facility" has the meaning assigned by Section 104.002, except that the term does not include a treatment facility licensed by the Texas Commission on Alcohol and Drug Abuse.

(2) "Inspection" includes a survey, inspection, investigation, or other procedure necessary for a state agency to carry out an obligation imposed by federal and state laws, rules, and regulations.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 222.023. LIMITATION ON INSPECTIONS. (a) A state agency may make or require only those inspections necessary to carry out obligations imposed on the agency by federal and state laws, rules, and regulations.

(b) Instead of making an on-site inspection, a state agency shall accept an on-site inspection by another state agency charged with making an inspection if the inspection substantially complies with the accepting agency's inspection requirements.

(c) A state agency shall coordinate its inspections within the agency and with inspections required of other agencies to ensure compliance with this section.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 222.024. CERTIFICATION OR ACCREDITATION INSTEAD OF INSPECTION. (a) Except as provided by Subsection (c), a hospital licensed by the Texas Department of Health is not subject to additional annual licensing inspections before the department issues the hospital a license while the hospital maintains:

(1) certification under Title XVIII of the Social Security Act (42 U.S.C. Section 1395 et seq.); or

(2) accreditation from the Joint Commission on Accreditation of Healthcare Organizations, the American Osteopathic Association, or other national accreditation organization for the offered services.

(b) If the department licenses a hospital exempt from an annual licensing inspection under Subsection (a), the department shall issue a renewal license to the hospital if the hospital annually:

(1) submits a complete application required by the department;

(2) remits any applicable fees;

(3) submits a copy of documentation from the certification or accreditation body showing that the hospital is certified or accredited; and

(4) submits a copy of the most recent fire safety inspection report from the fire marshal in whose jurisdiction the hospital is located.

(c) The department may conduct an inspection of a hospital exempt from an annual licensing inspection under Subsection (a) before issuing a renewal license to the hospital if the

certification or accreditation body has not conducted an on-site inspection of the hospital in the preceding three years and the department determines that an inspection of the hospital by the certification or accreditation body is not scheduled within 60 days.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 584, Sec. 16, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 223, Sec. 1, eff. Sept. 1, 1997.

Sec. 222.025. LIMITATION OF OTHER REGULATION. (a) The Texas Department of Human Services, the Texas Department of Health, and the Texas Department of Mental Health and Mental Retardation each by rule shall execute a memorandum of understanding that establishes procedures to eliminate or reduce duplication of functions in certifying or licensing hospitals, nursing homes, or other facilities under their jurisdiction for payments under the requirements of Chapter 32, Human Resources Code, and federal law and regulations relating to Titles XVIII and XIX of the Social Security Act (42 U.S.C. Sections 1395 et seq. and 1396 et seq.). The procedures must provide for use by each agency of information collected by the agencies in making inspections for certification purposes and in investigating complaints regarding matters that would affect the certification of a nursing home or other facility under their jurisdiction.

(b) The Texas Department of Health shall coordinate all licensing or certification procedures conducted by the state agencies covered by this section.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 222.0255. NURSING HOMES. (a) The Texas Department of Human Services shall develop one set of standards for nursing homes that apply to licensing and to certification for participation in the medical assistance program under Chapter 32, Human Resources Code.

(b) The standards must comply with federal regulations. If the federal regulations at the time of adoption are less stringent than the state standards, the department shall keep and comply with the state standards.

(c) The department by rule shall adopt the standards and any amendments to the standards.

(d) The department shall maintain a set of standards for nursing homes that are licensed only.

(e) Chapter 242 establishes the minimum licensing standards for an institution. The licensing standards adopted by the department under this chapter shall be adopted subject to Section 242.037(b) and must comply with Section 242.037(c) and the other provisions of Chapter 242.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 64, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.079, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1159, Sec. 1.32, eff. Sept. 1, 1997.

Sec. 222.026. COMPLAINT INVESTIGATIONS AND ENFORCEMENT AUTHORITY. (a) Sections 222.024, 222.025, and 222.0255 do not affect the authority of the Texas Department of Health to implement and enforce the provisions of Chapter 241 (Texas Hospital Licensing Law) to:

(1) reinspect a hospital if a hospital applies for the reissuance of its license after a final ruling upholding the suspension or revocation of a hospital's license, the assessment of administrative or civil penalties, or the issuance of an injunction against the hospital for violations of provisions of the licensing law, rules adopted under the licensing law, special license conditions, or orders of the commissioner of health; or

(2) investigate a complaint against a hospital and, if appropriate, enforce the provisions of the licensing law on a finding by the department that reasonable cause exists to believe that the hospital has violated provisions of the licensing law, rules adopted under the licensing law, special license conditions, or orders of the commissioner of health; provided, however, that the department shall coordinate with the federal Health Care Financing Administration and its agents responsible for the inspection of hospitals to determine compliance with the conditions of participation under Title XVIII of the Social Security Act (42 U.S.C. Section 1395 et seq.), so as to avoid duplicate investigations.

(b) The department shall by rule establish a procedure for the acceptance and timely review of complaints received from

hospitals concerning the objectivity, training, and qualifications of the persons conducting the inspection.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 64, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 584, Sec. 17, eff. Sept. 1, 1993.

Sec. 222.027. PHYSICIAN ON SURVEY TEAM. The Texas Department of Health shall ensure that a licensed physician involved in direct patient care as defined by the Texas State Board of Medical Examiners is included on a survey team sent under Title XVIII of the Social Security Act (42 U.S.C. Section 1395 et seq.) when surveying the quality of services provided by physicians in hospitals.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 63, eff. Sept. 1, 1991.

SUBCHAPTER C. SURVEYS OF INTERMEDIATE CARE FACILITIES FOR MENTALLY RETARDED

Sec. 222.041. DEFINITIONS. In this subchapter:

(1) "Board" means the Texas Board of Human Services.
(2) "Commissioner" means the commissioner of human services.

(3) "Department" means the Texas Department of Human Services.

(4) "ICF-MR" means the medical assistance program serving persons receiving care in intermediate care facilities for mentally retarded persons.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 65, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.080, eff. Sept. 1, 1995.

Sec. 222.042. LICENSING OF ICF-MR BEDS AND FACILITIES. The department may not license or approve as meeting licensing standards new ICF-MR beds or the expansion of an existing ICF-MR facility unless the new beds or the expansion was included in the plan approved by the Health and Human Services Commission in accordance with Section 533.062.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 65, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 646, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 747, Sec. 26, eff. Sept. 1, 1993.

Sec. 222.043. REVIEW OF ICF-MR SURVEYS. (a) The board by rule shall establish policies and procedures as prescribed by this section to conduct an informal review of ICF-MR surveys when the survey findings are disputed by the provider. The board shall provide that the procedure may be used only if the deficiencies cited in the survey report do not pose an imminent threat of danger to the health or safety of a resident.

(b) The department shall designate at least one employee to conduct on a full-time basis the review provided by this section. The person must be impartial and may not be directly involved in or supervise any initial or recertification surveys. The person may participate in or direct follow-up surveys for quality assurance purposes only at the discretion of the commissioner or the commissioner's designated representative or under Chapter 242.

(c) The employee designated under Subsection (b) should have current knowledge of applicable federal laws and survey processes. The employee reports directly to the commissioner or the commissioner's designated representative.

(d) If a provider disputes the findings of a survey team or files a complaint relating to the conduct of the survey, the employee designated under Subsection (b) shall conduct an informal review as soon as possible, but before the 45th day after the date of receiving the request for a review or the expiration of the period during which the provider is required to correct the alleged deficiency, whichever is sooner.

(e) The employee conducting the review shall sustain, alter, or reverse the original findings of the survey team after consulting with the commissioner or the commissioner's designated representative.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 65, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.081, eff. Sept. 1, 1995.

Sec. 222.044. FOLLOW-UP SURVEYS. (a) The department shall conduct follow-up surveys of ICF-MR facilities to:

(1) evaluate and monitor the findings of the certification or licensing survey teams; and

(2) ensure consistency in deficiencies cited and in punitive actions recommended throughout the state.

(b) A provider shall correct any additional deficiency

cited by the department. The department may not impose an additional punitive action for the deficiency unless the provider fails to correct the deficiency within the period during which the provider is required to correct the deficiency.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 65, eff. Sept. 1, 1991.
Amended by Acts 1995, 74th Leg., ch. 76, Sec. 8.082, eff. Sept. 1, 1995.

Sec. 222.046. SURVEYS OF ICF-MR FACILITIES. (a) The department shall ensure that each survey team sent to survey an ICF-MR facility includes a qualified mental retardation professional, as that term is defined by federal law.

(b) The department shall require that each survey team sent to survey an ICF-MR facility conduct a final interview with the provider to ensure that the survey team informs the provider of the survey findings and that the survey team has requested the necessary information from the provider. The survey team shall allow the provider to record the interview. The provider shall immediately give the survey team a copy of any recording.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 65, eff. Sept. 1, 1991.