

HEALTH & SAFETY CODE
CHAPTER 249. MATERNITY HOMES

Sec. 249.001. DEFINITIONS. In this chapter:

(1) "Board" means the Board of Protective and Regulatory Services.

(2) "Department" means the Department of Protective and Regulatory Services.

(3) "Maternity home" means a place or establishment that receives, treats, or cares for, overnight or longer, within a period of 12 months, four or more pregnant women or women who, within two weeks before the date of the treatment or care, gave birth to a child, not including a woman who receives maternity care in the place or establishment that is the home of a relative of the woman related within the third degree of consanguinity or affinity, as determined under Chapter 573, Government Code.

Added by Acts 1993, 73rd Leg., ch. 747, Sec. 24, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995.

Sec. 249.002. LICENSE REQUIRED. (a) A person may not establish or operate a maternity home in this state without a license issued under this chapter.

(b) A license is not transferable or assignable.

Added by Acts 1993, 73rd Leg., ch. 747, Sec. 24, eff. Sept. 1, 1993.

Sec. 249.003. LICENSE APPLICATION AND ISSUANCE. (a) An applicant for a maternity home license must submit an application to the department on a form prescribed by the department.

(b) Each application must be accompanied by a nonrefundable license fee in an amount set by the board.

(c) The department shall issue a license if, after inspection and investigation, it finds that the applicant and the center meet the requirements of this chapter and the standards adopted under this chapter.

(d) The license fee must be paid annually on renewal of the license.

Added by Acts 1993, 73rd Leg., ch. 747, Sec. 24, eff. Sept. 1, 1993.

Sec. 249.004. INSPECTIONS. The department may inspect a maternity home at reasonable times as necessary to assure compliance with this chapter.

Added by Acts 1993, 73rd Leg., ch. 747, Sec. 24, eff. Sept. 1, 1993.

Sec. 249.005. FEES. The board shall set fees imposed by this chapter in amounts reasonable and necessary to defray the cost of administering this chapter.

Added by Acts 1993, 73rd Leg., ch. 747, Sec. 24, eff. Sept. 1, 1993.

Sec. 249.006. MATERNITY HOME LICENSING FUND. All fees collected under this chapter shall be deposited in the state treasury to the credit of the maternity home licensing fund and may be appropriated to the department only to administer and enforce this chapter.

Added by Acts 1993, 73rd Leg., ch. 747, Sec. 24, eff. Sept. 1, 1993.

Sec. 249.007. ADOPTION OF RULES. The board shall adopt rules necessary to implement this chapter, including requirements for the issuance, renewal, denial, suspension, and revocation of a license to operate a maternity home.

Added by Acts 1993, 73rd Leg., ch. 747, Sec. 24, eff. Sept. 1, 1993.

Sec. 249.008. MINIMUM STANDARDS. (a) The rules must contain minimum standards applicable to a maternity home and for:

(1) the qualifications of the professional staff and other personnel;

(2) the equipment essential to the health and welfare of the patients; and

(3) the sanitary and hygienic conditions within the home and its surroundings.

(b) This section does not authorize the board to:

(1) establish the qualifications of a licensed practitioner; or

(2) permit a person to provide health care services who is not authorized to provide those services under another state law.

Added by Acts 1993, 73rd Leg., ch. 747, Sec. 24, eff. Sept. 1, 1993.

Sec. 249.009. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE. (a) The department may deny, suspend, or revoke a license for a violation of this chapter or a rule adopted under this chapter.

(b) The denial, suspension, or revocation of a license by the department and the appeal from that action are governed by the

procedures for a contested case hearing under Chapter 2001, Government Code.

Added by Acts 1993, 73rd Leg., ch. 747, Sec. 24, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

Sec. 249.010. INJUNCTION. (a) The department may petition a district court for a temporary restraining order to restrain a continuing violation of the standards or licensing requirements provided under this chapter if the department finds that the violation creates an immediate threat to the health and safety of the patients of a maternity home.

(b) A district court, on petition of the department and on a finding by the court that a person is violating the standards or licensing requirements provided under this chapter, may by injunction:

(1) prohibit a person from continuing a violation of the standards or licensing requirements provided under this chapter;

(2) restrain or prevent the establishment or operation of a maternity home without a license issued under this chapter; or

(3) grant any other injunctive relief warranted by the facts.

(c) The attorney general shall institute and conduct a suit authorized by this section at the request of the department.

(d) Venue for a suit brought under this section is in the county in which the maternity home is located or in Travis County.

Added by Acts 1993, 73rd Leg., ch. 747, Sec. 24, eff. Sept. 1, 1993.

Sec. 249.011. CRIMINAL PENALTY. (a) A person commits an offense if the person violates Section 249.002(a).

(b) An offense under this section is punishable by a fine of not more than \$1,000 for the first offense and not more than \$500 for each subsequent offense.

(c) Each day of a continuing violation constitutes a separate offense.

Added by Acts 1993, 73rd Leg., ch. 747, Sec. 24, eff. Sept. 1, 1993.

Sec. 249.012. CIVIL PENALTY. (a) A person who violates this chapter or who fails to comply with a rule adopted under this chapter is liable for a civil penalty of not less than \$100 or more than \$10,000 for each violation if the department determines the violation threatens the health and safety of a patient.

(b) Each day of a continuing violation constitutes a separate ground for recovery.

Added by Acts 1993, 73rd Leg., ch. 747, Sec. 24, eff. Sept. 1, 1993.