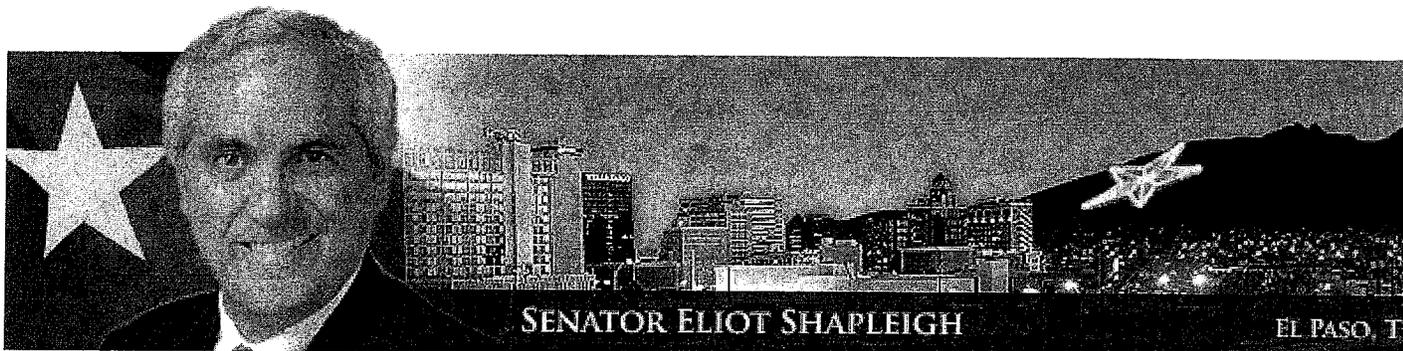


Subject: HB 216/Boarding Homes



TEXAS LEGISLATURE PASSES BILL TO REGULATE BOARDING HOMES FOR DISABLED, ELDERLY

May 31, 2009

"So often, the elderly, veterans and those with mental illness end up in boarding homes where unscrupulous owners take advantage. This bill will deliver protections for these vulnerable Texans."

Written by Senator Eliot Shapleigh, www.shapleigh.org

AUSTIN - Today, the Texas Legislature passed a bill sponsored by Senator Eliot Shapleigh (D- El Paso) that would mandate regulation of adult "boarding homes" for the mentally or physically disabled and the elderly.

H.B. 216, filed by Representative Jose Menendez (D-San Antonio) and sponsored by Senator Shapleigh, would amend the Health and Safety Code to give local governments the power to license and regulate such homes, which are currently unregulated under Texas law. According to the Texas Health and Human Services Commission (HHSC), approximately one thousand such boarding houses exist in the state.

Current law only requires licensing, inspection and regulation of such facilities when they provide medical services, prescription administration or therapeutic services. There are no restrictions on the size, management, or operation of these facilities.

"So often, the elderly, veterans and those with mental illness end up in boarding homes where unscrupulous owners take advantage. This bill will deliver protections for these vulnerable Texans," Senator Shapleigh said.

Under H.B. 216, HHSC would develop model statewide standards for regulation of boarding homes. Local governments would then have the option to regulate boarding homes. If they choose to regulate, then local governments would:

- inspect and investigate each boarding house before issuing a certificate of registration or renewal;
- maintain a registry of the boarding houses;
- inspect a registered boarding house at least once during each two-year registration period;
- set fees for the certificate of registration, which would cover the costs of administering the chapter;
- provide education and outreach to owners and operators of boarding houses by June 1, 2011; and

- require that owners and operators of boarding houses hold a certificate of registration.

The bill was developed with recommendations from HHSC. During the 80th Legislative session, the Legislature passed H.B. 1168, which required HHSC to study the issue of boarding houses and submit a report to the Legislature prior to this session.

Without regulation, many boarding houses have become abusive, crime ridden, unsafe and unsanitary. Many of these homes are not properly maintained, exposing residents to mold, faulty wiring, and other safety and fire hazards. The personal history of operators of such homes- including past criminal history- are not currently subject to investigation by the state.

Frequently in unregulated boarding homes, residents' medications are stolen or mismanaged. Residents are often left isolated, without proper care or supervision and vulnerable to exploitation and violence. For residents with mental illness, these conditions undermine their recovery efforts.

These homes are usually funded by residents' Social Security disability stipend. Without proper care, often these residents lose control over their finances while in the home, and thus lose the ability to relocate if needed.

In addition to sponsoring H.B. 1168, Senator Shapleigh also filed S.B. 1521, which would have provided similar oversight provisions.

- End -



BOARDING HOME FACILITIES

Report to the Texas Legislature

**As Required by:
H.B. 216, 81st Legislature, Regular Session, 2009**



The

Health and Human Services Commission

in coordination with the

Texas Department of Aging and Disability Services

December 2014

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Background

H.B. 216, 81st Legislature, Regular Session, 2009, amended the Texas Health and Safety Code by adding Chapter 254 governing boarding home facilities, re-designated as Chapter 260, effective September 1, 2011. Section 260.003 requires the executive commissioner of the Health and Human Services Commission (HHSC) to develop and publish model standards for the operation of a boarding home facility and specifies that these standards must address elements including construction, fire safety, sanitary conditions, reporting and investigation of injuries and incidents, staff education, and assessment of residents.

As required by H.B. 216, HHSC formed an interagency workgroup and drafted model standards. These standards were released to stakeholders for review and comment, and a public hearing was held in February 2010. After approval by the executive commissioner of HHSC, the standards were published in the August 27, 2010, issue of the *Texas Register*. Section 260.004 provides that, “A county or municipality may require a person to obtain a permit from the county or municipality to operate a boarding home facility within the county’s or municipality’s jurisdiction. A county or municipality may adopt the standards developed by the executive commissioner under Section 260.003 and require a boarding home facility that holds a permit issued by the county or municipality to comply with the adopted standards.”

If a county or municipality chooses to adopt the standards developed by HHSC, then, as provided by Section 260.010(a), not later than September 30 of each year after the standards are adopted, the county or municipality must submit a report to HHSC that includes:

- the total number of boarding home facilities permitted during the preceding state fiscal year;
- the number of active permits;
- the total number of residents in each boarding home facility; and
- the total number of inspections conducted of boarding home facilities.

HHSC is required under Section 260.010(b) to compile and maintain any reports submitted by a county or municipality and to report that information to the Legislature not later than January 1 of each odd-numbered year.

Following publication of the model standards, HHSC delegated to the Department of Aging and Disability Services (DADS) responsibility for:

- informing counties and municipalities about the model standards;
- making these standards readily available;
- alerting counties and municipalities who choose to adopt the model standards of the obligation to submit annual reports;
- creating a mechanism for submitting these reports;
- compiling any reports submitted by counties or municipalities; and
- submitting the compiled report through HHSC in a biennial report to the Legislature.

DADS Activities

In January 2011, DADS created a webpage that includes links to the statute, the model standards, required legislative reports, and the DADS mailbox address for questions regarding the Texas Boarding Home Model Standards. The link to this webpage is:
<http://www.dads.state.tx.us/boardingshomes/index.html>.

In order to inform local governments about the model standards and reporting requirements, DADS conducted ongoing outreach to local governments through the Texas Municipal League, the Texas Association of Counties, the Conference of Urban Counties, and with individual municipalities and counties. As DADS became aware, we contacted government entities adopting or considering the adoption of boarding home standards.

As of September 30, 2014, DADS is aware of four governmental entities that have adopted the model standards.

Local Government Activities and Reports

City of Brenham

In 2012, the City of Brenham passed an ordinance that allows the City of Brenham to permit boarding home facilities that are located in the city. The ordinance substantially tracks the model standards, including the requirement to report permitting activities to HHSC by September 30 of each year. However, the City of Brenham has not permitted or inspected, outside of routine fire safety inspections conducted by the Fire Marshal. Consequently, there are several homes under review requesting exemption from the ordinance.

As of January 15, 2013, there were 38 homes known to exist in Brenham. After further observation of the 38 homes, all are Home and Community-based Services (HCS) waiver group homes that are currently regulated by DADS.

Agency	Number of HCS Group Homes
Brenham Outreach Advisory Council, Inc.	5
MHMR Authority of Brazos Valley	1
Thomas and Lewin Associates, Inc.	8
D&S Residential Services, LP	18
JOVIC Homes, LLC	5
Mosaic	1

The Code of Ordinances can be accessed at the following link:
<http://cityofbrenham.org/admin/ordinances.php>

City of Dallas

Dallas initially implemented an ordinance regulating boarding home facilities on October 1, 2012. The ordinance, substantially adopts the model standards, including the requirement to report permitting activities to HHSC by September 30 of each year.

The report contained the following information in accordance with the provisions of Section 260.010:

- 27 boarding home facilities were licensed by the city during the preceding state fiscal year. 2 of the 27 licensed facilities closed on their own prior to August 31, 2014.
- 1 boarding home facility's application for licenses was denied, including a summary of the causes for denial. Summary for denial: Criminal history disqualifications and violations of the Dallas Development Codes zoning regulations.
- There were a total of 1083 residents in boarding home facilities.
- 548 inspections were conducted by the city at boarding home facility.
- 159 re-inspections for potential boarding home facilities.
- There were no licenses suspended or revoked as a result of an inspection.
- There was no summary outcome for any residents displaced by suspension or revocation of a license, as no boarding home facility licenses were suspended or revoked.

The Dallas City Council Resolution and Ordinance 28706 can be accessed at the following link: <http://www.ci.dallas.tx.us/cso/resolutions/2012/06-27-12/12-1719.PDF>

City of El Paso

El Paso initially adopted an ordinance regulating boarding home facilities on July 1, 2011. The ordinance substantially adopts the model standards, including the requirement to report permitting activity to HHSC by September 30 of each year. On September 30, 2014, the city of El Paso submitted its report.

The report contained the following information in accordance with the provisions of Section 260.010:

- 78 boarding home facilities received permits during the preceding state fiscal year.
- 2 boarding home facility's applications were denied permits, including a summary of cause of denial.
- 45 boarding home facility's permits were active on August 31 of the preceding state fiscal year.
- There were a total of 297 residents in boarding home facilities.
- 231 inspections were conducted for all boarding homes.
- 2 permits were revoked or suspended as a result of an inspection. A total of 2 permits were denied. Subsequent to permit denial, they terminated their occupants and relocated their tenants to other boarding home facilities.

Boarding Home Facilities

The El Paso ordinance may be accessed at the following link, under Title 5, Business License and Permit regulations, Chapter 5.07-Boarding Home Facilities:

<http://library.municode.com/index.aspx?clientId=16180>

City of San Antonio

On September 30, 2014, San Antonio submitted its report. The Development Services of San Antonio provided the information on boarding home facilities.

The report contained the following information in accordance with the provisions of Section 260.010:

- 6 boarding home facilities received permits during the preceding state fiscal year.
- There was 1 active permit at the end of the state fiscal year.
- There were a total of 156 residents in boarding home facilities.
- 184 inspections were conducted of the boarding home facilities.

The San Antonio ordinance may be accessed at the following link:

<http://www.sanantonio.gov/BoardingHomesOrdinance.aspx>

DADS will continue to observe boarding home facility permitting activities by local governments as requested.