

By: Clardy, Raymond, Morales of Maverick

H.B. No. 4220

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the office of the state long-term care ombudsman.

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

4 SECTION 1. Section 101A.251, Human Resources Code, is
5 amended by adding Subdivision (3-b) to read as follows:

6 (3-b) "Patient care record" means a medical, social,
7 or other record related to a resident.

8 SECTION 2. Section 101A.257(b), Human Resources Code, is
9 amended to read as follows:

10 (b) The state long-term care ombudsman shall ensure that
11 each ombudsman designated under Section 101A.255 who investigates
12 complaints has received proper training and has been approved by
13 the office as qualified to investigate complaints. The training
14 must include instruction regarding state laws and regulations
15 applicable to the long-term care settings in which each ombudsman
16 will conduct investigations.

17 SECTION 3. Section 101A.258, Human Resources Code, is
18 amended by amending Subsections (a) and (a-1) and adding Subsection
19 (a-2) to read as follows:

20 (a) The state long-term care ombudsman and representatives
21 shall, as provided by commission rules, have access to a resident's
22 patient care records and to a long-term care facility's
23 administrative records, policies, and other documents that
24 residents or the general public have access to [~~of residents as~~

1 ~~provided by commission rules~~]. Except as provided by Subsection
2 (b), all records and information created or obtained by the state
3 long-term care ombudsman or a representative remain confidential.

4 (a-1) The state long-term care ombudsman and
5 representatives shall have access to a resident's patient care
6 records ~~[of a resident]~~ if:

7 (1) the state long-term care ombudsman or
8 representative has obtained the resident's ~~[resident]~~ or the
9 resident's legal representative's informed consent ~~[representative~~
10 ~~consents]~~ to ~~[the]~~ access the records;

11 (2) the resident is unable to consent to the access and
12 the resident has no legal representative; or

13 (3) access to the records is necessary to investigate
14 a complaint and:

15 (A) a legal representative of the resident
16 refuses to consent to the access;

17 (B) the state long-term care ombudsman or
18 representative has reasonable cause to believe that the legal
19 representative of the resident is not acting in the best interests
20 of the resident; and

21 (C) the state long-term care ombudsman approves
22 the access.

23 (a-2) The office shall, in accordance with commission rule,
24 provide documentation to a long-term care facility that is the
25 subject of an investigation conducted under Section [101A.257](#)
26 evidencing that the state long-term care ombudsman or a
27 representative is entitled to access a resident's patient care

1 records by having satisfied the requirements of Subsection
2 (a-1)(1), (a-1)(2), or (a-1)(3), as applicable.

3 SECTION 4. Section 101A.261, Human Resources Code, is
4 amended to read as follows:

5 Sec. 101A.261. PUBLIC INFORMATION. (a) The office shall
6 provide information and make recommendations to public agencies,
7 legislators, and other persons about the problems and concerns of
8 residents.

9 (b) The office shall include on each of the office's
10 publications a statement explaining:

11 (1) the office's role as an advocate for residents; and

12 (2) that the points of view, opinions, positions, or
13 policies of the ombudsmen do not necessarily represent the points
14 of view, opinions, positions, or policies of the commission.

15 (c) The statement required under Subsection (b) may be
16 modified as necessary to reflect a publication's primary audience.

17 SECTION 5. Section 101A.262(a), Human Resources Code, is
18 amended to read as follows:

19 (a) The office shall prepare a report that contains:

20 (1) information and findings relating to the problems
21 and concerns of residents; ~~and~~

22 (2) policy, regulatory, and legislative
23 recommendations to solve the problems, resolve the concerns, and
24 improve the quality of the residents' care and lives;

25 (3) a list of persons representing the office who
26 submitted a sworn statement to a committee of the legislature
27 indicating the office was present in favor of, in opposition to, or

1 without taking a position on legislation and a description of the
2 legislation, including the bill number, the position taken, and a
3 summary of the testimony given; and

4 (4) if the office submitted a public comment on a
5 proposed rule published in the Texas Register, a citation to the
6 volume and page numbers in the Texas Register that included the
7 proposed rule and a summary of the submitted comment.

8 SECTION 6. This Act takes effect September 1, 2023.