

By: Naishtat

H.B. No. 3077

Substitute the following for H.B. No. 3077:

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C.S.H.B. No. 3077

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the establishment of a work group to recommend
3 definitions, guidelines, and reporting requirements regarding the
4 management of behavior of residents at certain facilities.

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

6 SECTION 1. (a) In this Act:

7 (1) "Executive commissioner" means the executive
8 commissioner of the Health and Human Services Commission.

9 (2) "Facility" means:

10 (A) a child-care institution, as defined by
11 Section 42.002, Human Resources Code, including a state-operated
12 facility, that is a residential treatment center or a child-care
13 institution serving children with mental retardation;

14 (B) an intermediate care facility licensed by the
15 Department of Aging and Disability Services under Chapter 252,
16 Health and Safety Code, or operated by the department and exempt
17 under Section 252.003, Health and Safety Code, from the licensing
18 requirements of that chapter;

19 (C) a mental hospital or mental health facility,
20 as defined by Section 571.003, Health and Safety Code;

21 (D) an institution, as defined by Section
22 242.002, Health and Safety Code;

23 (E) an assisted living facility, as defined by
24 Section 247.002, Health and Safety Code;

1 (F) a treatment facility, as defined by Section
2 464.001, Health and Safety Code;

3 (G) a facility under the jurisdiction of the
4 Texas Youth Commission; or

5 (H) a public or private juvenile detention or
6 correctional facility regulated by the Texas Juvenile Probation
7 Commission under Chapter 141, Human Resources Code.

8 (3) "Health and human services agency" means an agency
9 listed in Section 531.001, Government Code.

10 (4) "Regulatory agency" means a health and human
11 services agency, the Texas Juvenile Probation Commission, the Texas
12 Youth Commission, or any other agency of this state that regulates
13 or oversees facilities in which restraints, seclusion, or emergency
14 medication are used on facility residents. The term does not
15 include the Texas Department of Criminal Justice.

16 (b) Not later than November 1, 2005, the executive
17 commissioner, in cooperation with regulatory agencies, shall
18 establish a work group to develop and recommend definitions,
19 guidelines, and reporting requirements relating to the use of
20 restraints, seclusion, and emergency medication in the management
21 of behavior of facility residents.

22 (c) The work group is composed of:

23 (1) a representative of the Department of State Health
24 Services, who is appointed by the executive commissioner;

25 (2) a representative of the Department of Aging and
26 Disability Services, who is appointed by the executive
27 commissioner;

1 (3) a representative of the Department of Family and
2 Protective Services, who is appointed by the executive
3 commissioner;

4 (4) a representative of the Texas Youth Commission,
5 who is appointed by the executive director of that commission;

6 (5) a representative of the Texas Juvenile Probation
7 Commission, who is appointed by the executive director of that
8 commission;

9 (6) a representative of this state's protection and
10 advocacy system established as required by 42 U.S.C. Section 15043,
11 who is appointed by the administrative head of that system; and

12 (7) the number of additional members determined by the
13 executive commissioner and who are appointed by the executive
14 commissioner and are recognized experts representing the interests
15 of facility residents, including advocates, family members,
16 physicians, social workers, psychiatric nurses, and
17 representatives of hospitals licensed under Chapter 241 or 577,
18 Health and Safety Code.

19 (d) The work group shall solicit comments from
20 representatives of facilities and appropriate associations and
21 industry groups and shall provide opportunities for those persons
22 to appear before the work group to discuss the definitions,
23 guidelines, and reporting requirements the work group is charged
24 with recommending under this section. Except as specifically
25 provided by Subsection (c)(7) of this section, a representative of
26 a facility or of an interested association or industry group may not
27 serve as a member of the work group.

1 (e) The work group shall:

2 (1) recommend definitions, guidelines, and reporting
3 requirements related to the management of behavior of facility
4 residents to be adopted and implemented by all state health and
5 human services agencies;

6 (2) recommend guidelines for adoption by health and
7 human services agencies on the use of restraints and the
8 administration of emergency medication by facility employees to
9 prevent the death of or serious injury to facility residents
10 related to the administration of emergency medication or use of
11 restraint;

12 (3) recommend guidelines for adoption by regulatory
13 agencies on the use of seclusion on facility residents; and

14 (4) develop and recommend a comprehensive reporting
15 system to be implemented by regulatory agencies that at a minimum:

16 (A) collects and analyzes data related to the use
17 of:

18 (i) behavioral and physical interventions
19 by facility employees to manage the behavior of facility residents
20 in an emergency; and

21 (ii) medication administered in an
22 emergency by facility employees to facility residents without the
23 consent of the residents;

24 (B) complies with federal reporting
25 requirements;

26 (C) documents the death or serious injury of a
27 facility resident related to a facility employee's physical

1 intervention or use of restraint, including the administration of
2 medication; and

3 (D) documents the death or serious injury of a
4 facility employee during a physical intervention or restraint of a
5 facility resident.

6 (f) Not later than July 1, 2006, the executive commissioner
7 shall file a report with the governor, lieutenant governor, speaker
8 of the house of representatives, and appropriate committees of the
9 senate and the house of representatives on:

10 (1) the actions taken by regulatory agencies to
11 implement the work group's recommended definitions, guidelines,
12 and reporting requirements, including the rules adopted by the
13 agencies; and

14 (2) any recommendations for legislation necessary to
15 implement the work group's recommendations.

16 SECTION 2. This Act expires January 1, 2007.

17 SECTION 3. This Act takes effect September 1, 2005.