

By: Naishtat

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) "Regulatory agency" means a health and human
9 services agency listed in Section 531.001, Government Code, the
10 Texas Juvenile Probation Commission, the Texas Youth Commission, or
11 any other agency of this state that regulates or oversees
12 facilities in which restraints, seclusion, or emergency medication
13 are used on facility residents. The term does not include the Texas
14 Department of Criminal Justice.

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

21 (c) The work group is composed of six members appointed as
22 follows:

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; and

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.

12 (d) The work group shall solicit comments from
13 representatives of facilities and appropriate associations and
14 industry groups and shall provide opportunities for those persons
15 to appear before the work group to discuss the definitions,
16 guidelines, and reporting requirements the work group is charged
17 with recommending under this section. A representative of a
18 facility or of an interested association or industry group may not
19 serve as a member of the work group.

20 (e) The work group shall:

21 (1) recommend definitions, guidelines, and reporting
22 requirements related to the management of behavior of facility
23 residents to be adopted and implemented by all state regulatory
24 agencies;

25 (2) recommend guidelines for adoption by regulatory
26 agencies on the use of restraints and the administration of
27 emergency medication by facility employees to prevent the death of

1 or serious injury to facility residents related to the
2 administration of emergency medication or use of restraint;

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

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

7 (A) collects and analyzes data related to the use
8 of:

9 (i) behavioral and physical interventions
10 by facility employees to manage the behavior of facility residents
11 in an emergency; and

12 (ii) medication administered in an
13 emergency by facility employees to facility residents without the
14 consent of the residents;

15 (B) complies with federal reporting
16 requirements;

17 (C) documents the death or serious injury of a
18 facility resident related to a facility employee's physical
19 intervention or use of restraint, including the administration of
20 medication; and

21 (D) documents the death or serious injury of a
22 facility employee during a physical intervention or restraint of a
23 facility resident.

24 (f) Not later than July 1, 2006, the executive commissioner
25 shall file a report with the governor, lieutenant governor, speaker
26 of the house of representatives, and appropriate committees of the
27 senate and the house of representatives on:

1 (1) the actions taken by regulatory agencies to
2 implement the work group's recommended definitions, guidelines,
3 and reporting requirements, including the rules adopted by the
4 agencies; and

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

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

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