

BILL ANALYSIS

C.S.S.B. 131
By: West, Royce
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Nursing Home Reform Act, passed by the United States Congress in 1987, authorizes the formation of family councils in nursing homes and requires nursing facilities to consider and act upon grievances communicated by families and residents. However, no state law exists to specifically allow for nursing home family councils.

A family council is an independently organized group consisting of families, legal guardians, and friends of residents meeting in the same nursing home that works to improve resident nursing care, to become informed on the regulations governing nursing homes, and to lend support to family members. Council members have a voice in making suggestions to the staff administration on facility policies and care of the residents.

Residents, family members, friends, nursing home staff, and nursing home owners all benefit from family councils, but the residents are the ones who reap the greatest benefit from effective family councils. Interested parties working together on the common issues and concerns to improve resident care results in benefits for everyone.

With family councils, facility staff and council work together to promote positive activities, solve resident concerns and issues, and improve the quality of care for residents. As the caregivers become aware of a family's expectations regarding good resident care, they may be prompted to monitor resident care more closely. Nursing facility owners benefit when the nursing home staff and family council work together on problems-solving, deficiencies cited by state surveyors may be reduced, and the facility may obtain a higher rating on its medical data sets report sent to the Centers for Medicare and Medicaid Services.

C.S.S.B. 131 authorizes the formation of family councils at nursing homes.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 3 and SECTION 4 of this bill.

ANALYSIS

The bill requires the department to perform at least two unannounced inspections each licensing period and sets out the qualifications for a required citizen advocate.

The bill requires the facility to provide a copy of the final statement of violations of a survey, inspection, or investigation under this section to a representative of the facility's family council not later than the fifth working day after the date the statement is received by the facility.

The bill defines "department," "executive commissioner," and "family council." The bill authorizes a family council to make recommendations to the institution proposing policy and operational decisions affecting resident care and quality of life; and promote educational programs and projects that will promote the health and happiness of residents. The bill requires an institution to consider the views and recommendations of the family council and make a reasonable effort to resolve the council's grievances. The bill prohibits an institution from taking certain actions relating to a family council, including: prohibiting the formation of family council; terminating an existing family council; denying a family council the opportunity to

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accept help from an outside person; and limiting the rights of a resident, family member or family council member to meet with an outside person, including an employee of the nursing home during nonworking hours, if the employee agrees to the meeting, and a member of a nonprofit or government organization. The bill prohibits a nursing home from preventing or interfering with the family council's mail, including opening the mail. The bill prohibits a nursing home from willfully interfering with the formation, maintenance, or operation of a family council, including discriminating or retaliating against a family council participant; and willfully scheduling events in conflict with previously scheduled family council meetings if the institution has other scheduling options. Requires an institution to inform the resident's family in writing of certain matters upon admission of a resident, including: the family members' right to form a family council, or, if a family council already exists, the council's meeting time, date, and location, and contact person.

The bill requires an institution to take certain actions relating to a family council, including: providing notice of a family council in a mailing that occurs at least semiannually; permitting a representative of a family council to discuss concerns with an individual conducting an inspection or survey of the facility; providing a family council with adequate space on a prominent bulleting board to post notices and other information; providing a designated staff person to act as liaison for a family council; and responding in writing to a written request by a family council within five working days.

The bill requires an institution to allow the family council to meet in a common meeting room of the institution at least once per month on written request during hours mutually agreed upon by the family council and the institution. The bill authorizes institution employees and visitors to attend a family council meeting only at the council's invitation. The bill authorizes a family council member to authorize another member in writing to visit and observe a resident represented by the authorizing member unless the resident objects. The bill requires the Department of Aging and Disability Services (DADS) to administer this subchapter. The bill requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt rules necessary for implementation of this section.

The bill requires the executive commissioner to adopt rules as required by Section 242.906, Health and Safety Code, as added by this Act, not later than December 1, 2007.

EFFECTIVE DATE

September 1, 2007, except as provided by Subsection (b).

Effective date for Sections 1, 2, and 3 of this Act: September 1, 2008.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The bill as filed requires that DADS invite at least one person as a citizen advocate from the facility's family council to at least two unannounced inspections each licensing period.

The Committee Substitute does not include this requirement.

The bill as filed defines "Family Council" as "a group of family members, friends, or representatives of two or more residents, who organize and meet privately." The Committee Substitute changes this definition to "a group of family members, friends, or legal guardians of residents, who organize and meet privately or openly."

The bill as filed includes the following requirement in a nursing home's duties: "An institution shall consider the views and act on the recommendations and grievances of the family council." The Committee Substitute changes this requirement to read: "An institution shall consider the views and recommendations of the family council and make a reasonable effort to resolve the council's grievances."

The bill as filed includes a prohibition against a nursing home limiting the rights of a resident, family member, or family council member to meet with an outside person, including: an employee of the institution during nonworking hours.

The bill as filed adds: "if the employee agrees" to the meeting, the committee substitute does not.

The bill as filed allows a family member to authorize another member to visit and observe a resident represented by the authorizing member adds to this provision that an authorization be in writing, and also that the visit and observation cannot take place if the resident objects, the committee substitute does not.

