

By: West, et al.

S.B. No. 131

Substitute the following for S.B. No. 131:

By: Rose

C.S.S.B. No. 131

A BILL TO BE ENTITLED

AN ACT

relating to the creation of nursing home family councils.

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

SECTION 1. Section 242.044(b), Health and Safety Code, is amended to read as follows:

(b) For at least two unannounced inspections each licensing period of an institution other than one that provides maternity care, the department shall invite at least one person as a citizen advocate from:

(1) the American Association of Retired Persons;

(2) the Texas Senior Citizen Association;

(3) the Texas Retired Federal Employees;

(4) the department's [~~Texas Department on Aging~~] Certified Long Term Care Ombudsman; [~~or~~]

(5) another statewide organization for the elderly.

SECTION 2. Section 242.0445, Health and Safety Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Not later than the fifth working day after the date the facility receives the final statement of violations under this section, the facility shall provide a copy of the statement to a representative of the facility's family council.

SECTION 3. Chapter 242, Health and Safety Code, is amended by adding Subchapter S to read as follows:

1                   SUBCHAPTER S. FAMILY COUNCIL

2           Sec. 242.901. DEFINITIONS. In this subchapter:

3                   (1) "Department" means the Department of Aging and  
4 Disability Services.

5                   (2) "Executive commissioner" means the executive  
6 commissioner of the Health and Human Services Commission.

7                   (3) "Family council" means a group of family members,  
8 friends, or legal guardians of residents, who organize and meet  
9 privately or openly.

10           Sec. 242.902. FAMILY COUNCIL. A family council may:

11                   (1) make recommendations to the institution proposing  
12 policy and operational decisions affecting resident care and  
13 quality of life; and

14                   (2) promote educational programs and projects that  
15 will promote the health and happiness of residents.

16           Sec. 242.903. DUTIES OF INSTITUTION. (a) An institution  
17 shall consider the views and recommendations of the family council  
18 and make a reasonable effort to resolve the council's grievances.

19                   (b) An institution may not:

20                           (1) prohibit the formation of a family council;

21                           (2) terminate an existing family council;

22                           (3) deny a family council the opportunity to accept  
23 help from an outside person;

24                           (4) limit the rights of a resident, family member, or  
25 family council member to meet with an outside person, including:

26                                   (A) an employee of the institution during  
27 nonworking hours if the employee agrees; and

1                   (B) a member of a nonprofit or government  
2 organization;

3                   (5) prevent or interfere with the family council  
4 receiving outside correspondence addressed to the council;

5                   (6) open family council mail; or

6                   (7) wilfully interfere with the formation,  
7 maintenance, or operation of a family council, including  
8 interfering by:

9                   (A) discriminating or retaliating against a  
10 family council participant; and

11                   (B) wilfully scheduling events in conflict with  
12 previously scheduled family council meetings if the institution has  
13 other scheduling options.

14                   (c) On admission of a resident, an institution shall inform  
15 the resident's family members in writing of:

16                   (1) the family members' right to form a family council;  
17 or

18                   (2) if a family council already exists, the council's:

19                   (A) meeting time, date, and location; and

20                   (B) contact person.

21                   (d) An institution shall:

22                   (1) include notice of a family council in a mailing  
23 that occurs at least semiannually;

24                   (2) permit a representative of a family council to  
25 discuss concerns with an individual conducting an inspection or  
26 survey of the facility;

27                   (3) provide a family council with adequate space on a

1 prominent bulletin board to post notices and other information;

2 (4) provide a designated staff person to act as  
3 liaison for a family council; and

4 (5) respond in writing to a written request by a family  
5 council within five working days.

6 Sec. 242.904. MEETINGS. (a) On written request, an  
7 institution shall allow a family council to meet in a common meeting  
8 room of the institution at least once a month during hours mutually  
9 agreed upon by the family council and the institution.

10 (b) Institution employees or visitors may attend a family  
11 council meeting only at the council's invitation.

12 Sec. 242.905. VISITING. A family council member may  
13 authorize in writing another member to visit and observe a resident  
14 represented by the authorizing member unless the resident objects.

15 Sec. 242.906. ADMINISTRATION; RULES. (a) The department  
16 shall administer this subchapter.

17 (b) The executive commissioner shall adopt rules necessary  
18 to implement this section.

19 SECTION 4. Not later than December 1, 2007, the executive  
20 commissioner of the Health and Human Services Commission shall  
21 adopt rules as required by Section 242.906, Health and Safety Code,  
22 as added by this Act.

23 SECTION 5. (a) Except as provided by Subsection (b) of this  
24 section, this Act takes effect September 1, 2007.

25 (b) Sections 1, 2, and 3 of this Act take effect September 1,  
26 2008.