

By: West, Royce

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;

(5) the facility's family council; or

(6) [~~(5)~~] another statewide organization for the elderly.

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

(b) At the conclusion of an inspection, survey, or investigation under Section 242.043 or 242.044, the department or the department's representative conducting the inspection, survey, or investigation shall discuss the violations with the facility's management and a representative from the facility's family council

1 in an exit conference. The department or the department's  
2 representative shall leave a written list of the violations with  
3 the facility and the family council representative at the time of  
4 the exit conference. If the department or the department's  
5 representative discovers any additional violations during the  
6 review of field notes or preparation of the official final list, the  
7 department or the department's representative shall give the  
8 facility and the family council representative an additional exit  
9 conference regarding the additional violations.

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

12 SUBCHAPTER S. FAMILY COUNCIL

13 Sec. 242.901. DEFINITIONS. In this subchapter:

14 (1) "Department" means the Department of Aging and  
15 Disability Services.

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

18 (3) "Family council" means a group of family members,  
19 friends, or representatives of two or more residents, who organize  
20 and meet privately.

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

22 (1) make recommendations to the institution proposing  
23 policy and operational decisions affecting resident care and  
24 quality of life; and

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

27 Sec. 242.903. DUTIES OF INSTITUTION. (a) An institution

1 shall consider the views and act on the recommendations and  
2 grievances of the family council.

3 (b) An institution may not:

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

5 (2) terminate an existing family council;

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

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

10 (A) an employee of the institution during  
11 non-working hours; and

12 (B) a member of a nonprofit or government  
13 organization;

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

16 (6) open family council mail; or

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

20 (A) discriminating or retaliating against a  
21 family council participant; and

22 (B) wilfully scheduling events in conflict with  
23 previously scheduled family council meetings if the institution has  
24 other scheduling options.

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

27 (1) the family members' right to form a family council;

1 or

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

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

4 (B) contact person.

5 (d) An institution shall:

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

8 (2) permit a representative of a family council to  
9 participate in an inspection or survey of the facility;

10 (3) provide a family council with adequate space on a  
11 prominent bulletin board to post notices and other information;

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

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

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

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

22 Sec. 242.905. VISITING. A family council member may  
23 authorize another member to visit and observe a resident  
24 represented by the authorizing member.

25 Sec. 242.906. ADMINISTRATION; RULES. (a) The department  
26 shall administer this subchapter.

27 (b) The executive commissioner shall adopt rules necessary

1 to implement this section.

2 SECTION 4. Not later than November 1, 2007, the executive  
3 commissioner of the Health and Human Services Commission shall  
4 adopt rules as required by Section 242.906, Health and Safety Code,  
5 as added by this Act.

6 SECTION 5. This Act takes effect immediately if it receives  
7 a vote of two-thirds of all the members elected to each house, as  
8 provided by Section 39, Article III, Texas Constitution. If this  
9 Act does not receive the vote necessary for immediate effect, this  
10 Act takes effect September 1, 2007.