

1-1 By: West S.B. No. 131
1-2 (In the Senate - Filed November 30, 2006; January 29, 2007,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; March 5, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 March 5, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 131 By: West

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the creation of nursing home family councils.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Subsection (b), Section 242.044, Health and
1-13 Safety Code, is amended to read as follows:

1-14 (b) For at least two unannounced inspections each licensing
1-15 period of an institution other than one that provides maternity
1-16 care, the department shall invite at least one person as a citizen
1-17 advocate from:

- 1-18 (1) the American Association of Retired Persons;
- 1-19 (2) the Texas Senior Citizen Association;
- 1-20 (3) the Texas Retired Federal Employees;
- 1-21 (4) the department's [~~Texas Department on Aging~~]
1-22 Certified Long Term Care Ombudsman; [~~or~~]
- 1-23 (5) the facility's family council; or
- 1-24 (6) another statewide organization for the elderly.

1-25 SECTION 2. Section 242.0445, Health and Safety Code, is
1-26 amended by adding Subsection (b-1) to read as follows:

1-27 (b-1) Not later than the fifth working day after the date
1-28 the facility receives the final statement of violations under this
1-29 section, the facility shall provide a copy of the statement to a
1-30 representative of the facility's family council.

1-31 SECTION 3. Chapter 242, Health and Safety Code, is amended
1-32 by adding Subchapter S to read as follows:

1-33 SUBCHAPTER S. FAMILY COUNCIL

1-34 Sec. 242.901. DEFINITIONS. In this subchapter:

- 1-35 (1) "Department" means the Department of Aging and
1-36 Disability Services.
- 1-37 (2) "Executive commissioner" means the executive
1-38 commissioner of the Health and Human Services Commission.
- 1-39 (3) "Family council" means a group of family members,
1-40 friends, or representatives of two or more residents, who organize
1-41 and meet privately.

1-42 Sec. 242.902. FAMILY COUNCIL. A family council may:

- 1-43 (1) make recommendations to the institution proposing
1-44 policy and operational decisions affecting resident care and
1-45 quality of life; and
- 1-46 (2) promote educational programs and projects that
1-47 will promote the health and happiness of residents.

1-48 Sec. 242.903. DUTIES OF INSTITUTION. (a) An institution
1-49 shall consider the views and act on the recommendations and
1-50 grievances of the family council.

1-51 (b) An institution may not:

- 1-52 (1) prohibit the formation of a family council;
- 1-53 (2) terminate an existing family council;
- 1-54 (3) deny a family council the opportunity to accept
1-55 help from an outside person;
- 1-56 (4) limit the rights of a resident, family member, or
1-57 family council member to meet with an outside person, including:
 - 1-58 (A) an employee of the institution during
1-59 nonworking hours; and
 - 1-60 (B) a member of a nonprofit or government
1-61 organization;
- 1-62 (5) prevent or interfere with the family council
1-63 receiving outside correspondence addressed to the council;

2-1 (6) open family council mail; or
2-2 (7) wilfully interfere with the formation,
2-3 maintenance, or operation of a family council, including
2-4 interfering by:

2-5 (A) discriminating or retaliating against a
2-6 family council participant; and

2-7 (B) wilfully scheduling events in conflict with
2-8 previously scheduled family council meetings if the institution has
2-9 other scheduling options.

2-10 (c) On admission of a resident, an institution shall inform
2-11 the resident's family members in writing of:

2-12 (1) the family members' right to form a family council;
2-13 or

2-14 (2) if a family council already exists, the council's:

2-15 (A) meeting time, date, and location; and

2-16 (B) contact person.

2-17 (d) An institution shall:

2-18 (1) include notice of a family council in a mailing
2-19 that occurs at least semiannually;

2-20 (2) permit a representative of a family council to
2-21 participate in an inspection or survey of the facility;

2-22 (3) provide a family council with adequate space on a
2-23 prominent bulletin board to post notices and other information;

2-24 (4) provide a designated staff person to act as
2-25 liaison for a family council; and

2-26 (5) respond in writing to a written request by a family
2-27 council within five working days.

2-28 Sec. 242.904. MEETINGS. (a) On written request, an
2-29 institution shall allow a family council to meet in a common meeting
2-30 room of the institution at least once a month during hours mutually
2-31 agreed upon by the family council and the institution.

2-32 (b) Institution employees or visitors may attend a family
2-33 council meeting only at the council's invitation.

2-34 Sec. 242.905. VISITING. A family council member may
2-35 authorize another member to visit and observe a resident
2-36 represented by the authorizing member.

2-37 Sec. 242.906. ADMINISTRATION; RULES. (a) The department
2-38 shall administer this subchapter.

2-39 (b) The executive commissioner shall adopt rules necessary
2-40 to implement this section.

2-41 SECTION 4. Not later than December 1, 2007, the executive
2-42 commissioner of the Health and Human Services Commission shall
2-43 adopt rules as required by Section 242.906, Health and Safety Code,
2-44 as added by this Act.

2-45 SECTION 5. (a) Except as provided by Subsection (b) of
2-46 this section, this Act takes effect September 1, 2007.

2-47 (b) Sections 1, 2, and 3 of this Act take effect September 1,
2-48 2008.

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