

BILL ANALYSIS

H.B. 2402
By: Chavez
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, when an individual enters or resides in a nursing home, Section 242.051, Health and Safety Code, requires that the person be advised of certain constitutional, civil, and legal rights. This is done, in part, to make sure the person is aware of the person's rights, and to encourage the person to feel free to exercise those rights. As the residents are one of the two groups most aware of issues they may have with an institution (family members being the other group), a clear statement of their fundamental rights assists them in resolving issues and being certain where they stand if significant problems should arise.

Currently, the resident's statement of rights does not clearly state that a resident has the right to retain an attorney or bring a suit in court.

H.B. 2402 includes the right of a resident of a nursing home or other similar institution to retain an attorney and bring suit in court in the resident's statement of rights.

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 SECTIONS 1 and 2 of this bill.

ANALYSIS

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practicable, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

H.B. 2402 amends the Health and Safety Code to include the right of a resident of a nursing home or related institution to retain an attorney and bring suit in court in the statement of resident's rights. The bill requires the executive commissioner of the Health and Human Services Commission by rule to adopt a revised statement of a resident's rights not later than January 1, 2010.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.