

By: Chavez

H.B. No. 2402

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the right of a resident in a nursing home or related  
3 institution to bring an action in court.

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

5 SECTION 1. Section 242.501(a), Health and Safety Code, is  
6 amended to read as follows:

7 (a) The department by rule shall adopt a statement of the  
8 rights of a resident. The statement must be consistent with Chapter  
9 102, Human Resources Code, but shall reflect the unique  
10 circumstances of a resident at an institution. At a minimum, the  
11 statement of the rights of a resident must address the resident's  
12 constitutional, civil, and legal rights and the resident's right:

13 (1) to be free from abuse and exploitation;

14 (2) to safe, decent, and clean conditions;

15 (3) to be treated with courtesy, consideration, and  
16 respect;

17 (4) to not be subjected to discrimination based on  
18 age, race, religion, sex, nationality, or disability and to  
19 practice the resident's own religious beliefs;

20 (5) to place in the resident's room an electronic  
21 monitoring device that is owned and operated by the resident or  
22 provided by the resident's guardian or legal representative;

23 (6) to privacy, including privacy during visits and  
24 telephone calls;

1           (7) to complain about the institution and to organize  
2 or participate in any program that presents residents' concerns to  
3 the administrator of the institution;

4           (8) to retain an attorney and bring a suit in a court;

5           (9) to have information about the resident in the  
6 possession of the institution maintained as confidential;

7           (10) [~~(9)~~] to retain the services of a physician the  
8 resident chooses, at the resident's own expense or through a health  
9 care plan, and to have a physician explain to the resident, in  
10 language that the resident understands, the resident's complete  
11 medical condition, the recommended treatment, and the expected  
12 results of the treatment, including reasonably expected effects,  
13 side effects, and risks associated with psychoactive medications;

14           (11) [~~(10)~~] to participate in developing a plan of  
15 care, to refuse treatment, and to refuse to participate in  
16 experimental research;

17           (12) [~~(11)~~] to a written statement or admission  
18 agreement describing the services provided by the institution and  
19 the related charges;

20           (13) [~~(12)~~] to manage the resident's own finances or  
21 to delegate that responsibility to another person;

22           (14) [~~(13)~~] to access money and property that the  
23 resident has deposited with the institution and to an accounting of  
24 the resident's money and property that are deposited with the  
25 institution and of all financial transactions made with or on  
26 behalf of the resident;

27           (15) [~~(14)~~] to keep and use personal property, secure

1 from theft or loss;

2           (16) [~~(15)~~] to not be relocated within the  
3 institution, except in accordance with standards adopted by the  
4 department under Section 242.403;

5           (17) [~~(16)~~] to receive visitors;

6           (18) [~~(17)~~] to receive unopened mail and to receive  
7 assistance in reading or writing correspondence;

8           (19) [~~(18)~~] to participate in activities inside and  
9 outside the institution;

10           (20) [~~(19)~~] to wear the resident's own clothes;

11           (21) [~~(20)~~] to discharge himself or herself from the  
12 institution unless the resident is an adjudicated mental  
13 incompetent;

14           (22) [~~(21)~~] to not be discharged from the institution  
15 except as provided in the standards adopted by the department under  
16 Section 242.403;

17           (23) [~~(22)~~] to be free from any physical or chemical  
18 restraints imposed for the purposes of discipline or convenience,  
19 and not required to treat the resident's medical symptoms; and

20           (24) [~~(23)~~] to receive information about prescribed  
21 psychoactive medication from the person prescribing the medication  
22 or that person's designee, to have any psychoactive medications  
23 prescribed and administered in a responsible manner, as mandated by  
24 Section 242.505, and to refuse to consent to the prescription of  
25 psychoactive medications.

26           SECTION 2. Not later than January 1, 2010, the executive  
27 commissioner of the Health and Human Services Commission shall by

1 rule adopt a revised statement of the rights of a resident as  
2 required by Section 242.501, Health and Safety Code, as amended by  
3 this Act.

4 SECTION 3. This Act takes effect immediately if it receives  
5 a vote of two-thirds of all the members elected to each house, as  
6 provided by Section 39, Article III, Texas Constitution. If this  
7 Act does not receive the vote necessary for immediate effect, this  
8 Act takes effect September 1, 2009.