

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 18, 2009

TO: Honorable Patrick M. Rose, Chair, House Committee on Human Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB1663 by Wentworth (Relating to the disregard or violation of a resident's advance directive by a nursing institution; providing penalties.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Health and Safety Code as it relates to the disregard or violation of a resident's advance directive by a nursing institution and provide penalties.

The bill would require the Department of Aging and Disability Services (DADS) to assess an administrative penalty against an institution that knowingly employs or has on staff a health care practitioner who knowingly disregards or violates a resident's advance directive if the institution has included a statement in its written policies maintained under Section 166.004 that the institution would follow a resident's advance directive.

A person who has cause to believe that a resident's advance directive has been or may be knowingly disregarded in violation of a written policy maintained under Section 166.004 would be required to report the violation. If an institution, its owner, employees, agents, or physicians in good faith attempt to resuscitate a resident because the institution, its owners, employees, agents, or physicians reasonably believe that the process of dying appears to be the results of an accident, unnatural causes, or suspicious circumstances, it would not be considered a violation. To the extent consistent with federal law, an institution is authorized to object to honoring an advance directive if the institution includes in its policies and explains to each prospective resident before admission to the institution the circumstances under which the institution would not follow instructions of an advanced directive.

DADS, after providing notice and opportunity for a hearing to a license holder, would be required to suspend or revoke a license if the department finds that the license holder has been assessed three or more administrative penalties for violating the provisions of the bill.

According to DADS, the provisions of the bill that relate to administrative penalties would likely not result in any significant fiscal impact on revenue.

The bill would take effect September 1, 2009.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 539 Aging and Disability Services, Department of

LBB Staff: JOB, SJ, CL, LR