

By: Truitt

H.B. No. 2109

A BILL TO BE ENTITLED

AN ACT

1
2 relating to authorizing certain actions against an assisted living
3 facility for the inappropriate placement of a resident and
4 prohibiting retaliation against a facility.

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

6 SECTION 1. Section 247.066, Health and Safety Code, is
7 amended by amending Subsection (d) and adding Subsections (d-1) and
8 (f) to read as follows:

9 (d) If a department inspector determines that a resident is
10 inappropriately placed at a facility and the facility either agrees
11 with the determination or does not obtain the written statements
12 prescribed by Subsection (c) that would allow the resident to
13 remain in the facility notwithstanding the determination of the
14 inspector, the department may not assess an administrative penalty
15 against the facility because of the inappropriate placement, except
16 as provided by Subsection (d-1). However, the facility shall
17 discharge the resident. The resident is allowed 30 days after the
18 date of discharge to move from the facility. A discharge required
19 under this subsection must be made notwithstanding:

20 (1) any other law, including any law relating to the
21 rights of residents and any obligations imposed under the Property
22 Code; and

23 (2) the terms of any contract.

24 (d-1) The department may assess an administrative penalty

1 against a facility under this section only if the facility
2 intentionally or repeatedly disregarded the department's
3 guidelines for appropriate placement.

4 (f) The process described by this section is the
5 department's sole remedy for requiring the discharge of a resident
6 from an assisted living facility if a department inspector
7 determines that a resident is inappropriately placed at a facility.

8 SECTION 2. Section 247.068, Health and Safety Code, is
9 amended by adding Subsection (c) to read as follows:

10 (c) A department employee may not retaliate against an
11 assisted living facility, an employee of an assisted living
12 facility, or a person in control of an assisted living facility for:

13 (1) complaining about the conduct of a department
14 employee;

15 (2) disagreeing with a department employee about the
16 existence of a violation of this chapter or a rule adopted under
17 this chapter; or

18 (3) asserting a right under state or federal law.

19 SECTION 3. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2011.