

BILL ANALYSIS

Senate Research Center
84R24515 AJZ-D

H.B. 1337
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Due to the effects of aging, disease, or injury, some residents of nursing homes and assisted living facilities need help managing some or all of their daily affairs. One way of doing this is through the establishment of a court ordered guardianship, in which a person or entity is assigned to manage the affairs of the person who needs assistance.

Recently, in Austin, an allegation of sexual abuse was made at an assisted living facility, and during the investigation of the allegation, the facility staff reported that they were not aware that a guardianship order for the alleged victim existed. In fact, a guardianship existed, and the guardian should have been notified. What's more, an internal investigation by the Department of Aging and Disability Services (DADS) evaluating the agency's handling of this case concluded that the medical file for the alleged victim was never reviewed by the assigned DADS investigator, which resulted in a failure to notify the guardian of the allegations of sexual abuse.

Currently, assisted living facilities and nursing homes are not required to keep guardianship orders in a resident's medical file. What's more, when an investigator for DADS investigates a report of abuse, neglect, or exploitation, there is no requirement to check the resident's medical file for a guardianship order during the investigation.

H.B. 1337 requires nursing homes and assisted living facilities to maintain a copy of any court order appointing a guardian of a resident or a resident's estate in the resident's medical records. During an investigation of alleged abuse, neglect, or exploitation, H.B. 1337 would require the DADS investigator to inspect any order maintained in the resident's medical record appointing a guardian for the resident who is the subject of an investigation.

These requirements would enhance communication among those caring for some of the most vulnerable members of our society.

H.B. 1337 amends current law relating to requiring institutions and assisted living facilities to maintain guardianship orders of residents.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 242, Health and Safety Code, by adding Section 242.019, as follows:

Sec. 242.019. GUARDIANSHIP ORDERS. Requires an institution to make a reasonable effort to request a copy of any court order appointing a guardian of a resident or a resident's estate from the resident's nearest relative or the person responsible for the resident's support. Requires an institution that receives a copy of a court order appointing a guardian of a resident or a resident's estate to maintain a copy of the court order in the resident's medical records.

SECTION 2. Amends Subchapter D, Chapter 247, Health and Safety Code, by adding Section 247.070, as follows:

Sec. 247.070. GUARDIANSHIP ORDERS. Requires an assisted living facility to make a reasonable effort to request a copy of any court order appointing a guardian of a resident or a resident's estate from the resident's nearest relative or the person responsible for the resident's support. Requires an assisted living facility that receives a copy of a court order appointing a guardian of a resident or a resident's estate to maintain a copy of the court order in the resident's medical records.

SECTION 3. Amends Section 260A.007(e), Health and Safety Code, as follows:

(e) Requires the investigator for the Department of Aging and Disability Services, in investigating the report of abuse, neglect, exploitation, or other complaint, to:

- (1)-(3) Makes no change to these subdivisions;
- (4) and (5) Makes nonsubstantive changes to these subdivisions; and
- (6) for a resident of an institution or assisted living facility, inspect any court order appointing a guardian of the resident who was the subject of the alleged abuse, neglect, or exploitation that is maintained in the resident's medical records under Section 242.019 or 247.070.

SECTION 4. (a) Provides that an institution is not required to comply with Section 242.019, Health and Safety Code, as added by this Act, before January 1, 2016.

(b) Provides that an assisted living facility is not required to comply with Section 247.070, Health and Safety Code, as added by this Act, before January 1, 2016.

SECTION 5. Effective date: September 1, 2015.