By: Perry S.B. No. 1491

A BILL TO BE ENTITLED

AN ACT

relating to civil liability of a nursing facility resident's responsible payor for misappropriation of the resident's funds.

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

SECTION 1. Subchapter A, Chapter 242, Health and Safety Code, is amended by adding Section 242.020 to read as follows:

Sec. 242.020. CIVIL LIABILITY RELATED TO MISAPPROPRIATION OF RESIDENT'S FUNDS. (a) In this section:

(1) "Misappropriate" means the taking, secretion, misapplication, deprivation, transfer, or attempted transfer to any person not entitled to receive any property, real or personal, or anything of value belonging to or under the legal control of a resident without the effective consent of the resident or other appropriate legal authority.

(2) "Responsible payor" means a person who:

(A) has legal access to the resident's income or resources available to pay for nursing facility care; and

(B) has signed an admission agreement or other contract with the facility in which the person agrees to provide payment for the resident's facility care from the resident's income or resources.

(b) A nursing facility may file an action against a resident's responsible payor for an amount owed by the resident to the facility if:

(1) before admission of the resident, the facility obtains financial information from the resident or responsible payor demonstrating the amount of financial resources that the resident has available to pay for nursing facility care; and

(2) after the resident begins to reside at the facility, the responsible payor misappropriates the resident's resources to a degree that the resident is unable to afford to pay for the resident's care.

(c) Subject to Subsection (d), the prevailing party in an action filed under this section may recover attorney's fees.

(d) In an action filed under this section, a nursing facility may not recover a total amount, including damages and attorney's fees, that exceeds the amount the responsible payor has misappropriated from the resident.

SECTION 2. Section 242.020, Health and Safety Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2019.