By:  Clardy, Raymond, Morales of Maverick H.B. No. 4220

A BILL TO BE ENTITLED

AN ACT

relating to the office of the state long-term care ombudsman.

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

SECTION 1.  Section 101A.251, Human Resources Code, is amended by adding Subdivision (3-b) to read as follows:

(3-b)  "Patient care record" means a medical, social, or other record related to a resident.

SECTION 2.  Section 101A.257(b), Human Resources Code, is amended to read as follows:

(b)  The state long-term care ombudsman shall ensure that each ombudsman designated under Section 101A.255 who investigates complaints has received proper training and has been approved by the office as qualified to investigate complaints. The training must include instruction regarding state laws and regulations applicable to the long-term care settings in which each ombudsman will conduct investigations.

SECTION 3.  Section 101A.258, Human Resources Code, is amended by amending Subsections (a) and (a-1) and adding Subsection (a-2) to read as follows:

(a)  The state long-term care ombudsman and representatives shall, as provided by commission rules, have access to a resident's patient care records and to a long-term care facility's administrative records, policies, and other documents that residents or the general public have access to [~~of residents as provided by commission rules~~]. Except as provided by Subsection (b), all records and information created or obtained by the state long-term care ombudsman or a representative remain confidential.

(a-1)  The state long-term care ombudsman and representatives shall have access to a resident's patient care records [~~of a resident~~] if:

(1)  the state long-term care ombudsman or representative has obtained the resident's [~~resident~~] or the resident's legal representative's informed consent [~~representative consents~~] to [~~the~~] access the records;

(2)  the resident is unable to consent to the access and the resident has no legal representative; or

(3)  access to the records is necessary to investigate a complaint and:

(A)  a legal representative of the resident refuses to consent to the access;

(B)  the state long-term care ombudsman or representative has reasonable cause to believe that the legal representative of the resident is not acting in the best interests of the resident; and

(C)  the state long-term care ombudsman approves the access.

(a-2)  The office shall, in accordance with commission rule, provide documentation to a long-term care facility that is the subject of an investigation conducted under Section 101A.257 evidencing that the state long-term care ombudsman or a representative is entitled to access a resident's patient care records by having satisfied the requirements of Subsection (a-1)(1), (a-1)(2), or (a-1)(3), as applicable.

SECTION 4.  Section 101A.261, Human Resources Code, is amended to read as follows:

Sec. 101A.261.  PUBLIC INFORMATION. (a) The office shall provide information and make recommendations to public agencies, legislators, and other persons about the problems and concerns of residents.

(b)  The office shall include on each of the office's publications a statement explaining:

(1)  the office's role as an advocate for residents; and

(2)  that the points of view, opinions, positions, or policies of the ombudsmen do not necessarily represent the points of view, opinions, positions, or policies of the commission.

(c)  The statement required under Subsection (b) may be modified as necessary to reflect a publication's primary audience.

SECTION 5.  Section 101A.262(a), Human Resources Code, is amended to read as follows:

(a)  The office shall prepare a report that contains:

(1)  information and findings relating to the problems and concerns of residents; [~~and~~]

(2)  policy, regulatory, and legislative recommendations to solve the problems, resolve the concerns, and improve the quality of the residents' care and lives;

(3)  a list of persons representing the office who submitted a sworn statement to a committee of the legislature indicating the office was present in favor of, in opposition to, or without taking a position on legislation and a description of the legislation, including the bill number, the position taken, and a summary of the testimony given; and

(4)  if the office submitted a public comment on a proposed rule published in the Texas Register, a citation to the volume and page numbers in the Texas Register that included the proposed rule and a summary of the submitted comment.

SECTION 6.  This Act takes effect September 1, 2023.