

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1663
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Health & Human Services
4/22/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Individuals who live in assisted living facilities have the right to give advance directives, such as medical power of attorney, that will be followed in case of incapacitation. Currently, the penalties for not honoring an advance directive only apply in certain instances and are not sufficient to ensure that an advance directive will be honored.

C.S.S.B. 1663 amends current law relating to the disregard or violation of a resident's advance directive by a nursing institution and provides penalties.

[**Note:** While the statutory reference in this bill is to the Texas Department of Human Services (TDHS), the following amendments affect the Department of Aging and Disability Services (DADS), as the successor agency to DHS.]

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 Section 242.061, Health and Safety Code, by adding Subsection (a-1), to require the Texas Department of Human Services (TDHS), after providing notice and opportunity for a hearing to a license holder, to suspend or revoke a license if TDHS finds that the license holder has been assessed three or more administrative penalties for violating Section 242.0663(a)(2).

SECTION 2. Amends Section 242.0663, Health and Safety Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the Texas Department of Human Services to assess an administrative penalty under this subchapter against an institution that 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 (Statement Relating to Advance Directive) that the institution will follow a resident's advance directive.

(d) Provides that an action by a person, including an owner or employee of an institution, to knowingly disregard or violate a resident's advance directive in violation of a written policy maintained under Section 166.004 constitutes abuse and neglect of the resident for purposes of this chapter.

SECTION 3. Amends Section 242.122, Health and Safety Code, by adding Subsection (d), to define "abuse and neglect."

SECTION 4. Effective date: September 1, 2009.