

SUBJECT: Disclosure of liability insurance coverage by a nursing home

COMMITTEE: Insurance — committee substitute recommended

VOTE: 7 ayes — Smithee, Seaman, Isett, B. Keffer, Oliveira, Taylor, Van Arsdale
0 nays
2 absent — Eiland, Thompson

WITNESSES: For — Billy Langwell
Against — Sid Rich, Texas Association of Residential Care Communities
On — David Thomason, Texas Association of Homes and Services for the Aging

BACKGROUND: Health and Safety Code, ch. 242 contains state regulations regarding nursing homes, including required posting of complaint processes and regulatory oversight information. Nursing homes in Texas are not required to carry liability insurance as a condition of licensure.

DIGEST: CSHB 850 would require a nursing home to disclose in a written statement to the resident or resident's guardian whether the nursing home carried liability insurance. The disclosure statement would have to be signed by the resident or guardian and kept in the resident's file. The Department of Aging and Disability Services would be required to prescribe the written statement by December 1, 2005, and nursing homes would have to provide the statement after January 1, 2006.

The bill would take effect September 1, 2005.

SUPPORTERS SAY: CSHB 850 would be an important step in the right direction of open communication between residents and nursing homes. While most complaints are handled by the regulatory agency, very serious incidents sometimes result in lawsuits. It can be difficult for residents or family members to obtain information from a nursing home after a serious

incident. Under this bill, the information would be presented in an upfront manner, ensuring that the resident and guardian had the information they may need someday and the nursing home had an opportunity to put the information in context.

Most consumers assume that nursing homes carry liability insurance and may not know to ask for confirmation of insurance. While it is unlikely that information would change a consumer's mind about a nursing home, it is important for them to have all relevant information about the home before moving in.

**OPPONENTS
SAY:**

Whether or not a nursing home carries liability insurance has no relation to the quality of care offered by the home. Liability insurance is expensive and may be forfeited if those funds would better be spent on direct resident care. Requiring a nursing home to present this information would be inappropriate and could mislead residents into thinking that liability insurance correlates with quality of care.

The more important information for residents and their guardians is the complaint resolution process. The state has an entire system of complaint investigation and resolution, which is vital to ensuring the health and well-being of nursing home residents. Just like in other health care settings, such as a doctor's office or hospital, that information already is available and posted. Also, consumers already can ask whether or not a nursing home is insured.

NOTES:

The original bill would have required a nursing home to post the information.

The companion bill, SB 1099 by Deuell, was reported favorably, without amendment by the Senate Health and Human Services Committee on April 20 and was recommended for the Local and Consent Calendar.