

**SUBJECT:** Transferring home health agency regulation

**COMMITTEE:** Public Health — favorable, without amendment

**VOTE:** 9 ayes — Gray, Coleman, Capelo, Delisi, Glaze, Hilderbran, Maxey, McClendon, Uresti

0 nays

**SENATE VOTE:** On final passage, March 10 — 31-0

**WITNESSES:** For — Teresa Aguirre, Texas Association of Homes and Services for the Aging; Aaryce Hayes, Advocacy, Inc.; Mauro Reyna, American Association of Retired Persons

Against — None

**BACKGROUND:** Home health agencies are licensed and regulated by the Texas Department of Health (TDH) and are defined as entities that provide “home health, hospice or personal assistance services for pay or other consideration in the client’s residence, an independent living environment or another appropriate location.”

Home health agencies provide both short-term acute-care services and long-term care services. Since Medicare has been the primary payer for acute-care home health services in Texas, most home health agencies also meet Medicare certification requirements. However, the provision of long-term care services, primarily funded through the Medicaid program, is a growing portion of the home health industry.

Medicaid is the state/federal health benefit program for the low-income elderly and disabled. Medicare is the federal health benefit program for the elderly and disabled.

Medicaid and state funded long-term care home and community-based health services are offered through several state agencies, including TDH, the Texas Department of Human Services (DHS), the Texas Department of Mental

Health and Mental Retardation, and the Texas Rehabilitation Commission (TRC).

The Senate Interim Committee on Home Health and Assisted Living found problems associated with the fragmentation of state regulation of home health agencies and the services they provided through various programs. TDH regulates home health agencies against two standards: Medicare requirements and state Health and Safety Code requirements. Home health agencies also must conform to the requirements of the multiple state agencies and programs that contract with them for services.

**DIGEST:** SB 96 would require by September 1, 2001, if not earlier, the transfer from TDH to DHS of:

- ! the licensing and regulation of home health agencies and medication aides under state law and the certification of home health agencies for the Medicare program, along with all corresponding property, records, funds, obligations, and contracts; and
- ! all employees who perform duties related to these functions.

TDH rules related to these functions would remain in effect until changed by DHS. The transfer would occur even if legislation creating a new long-term care agency were enacted.

This bill would take immediate effect if passed by a two-thirds record vote of the membership of each house.

**NOTES:** SB 96 is one of several bills on today's calendar filed by Sen. Moncrief based on the findings of the Senate interim committee. Others include:

- ! SB 93, relating to the regulation of assisted care facilities;
- ! SB 94, relating to the regulation of home health agencies; and
- ! SB 95, relating to studies on the delivery of long-term care and community services.

This session, the Sunset Advisory Commission recommended the creation of a new, freestanding long-term care agency, comprising functions brought together from TDH, DHS, TRC, and the Texas Department on Aging. SB 374 by Zaffirini, which originally proposed this idea, has been amended to bring

some of the functions of those agencies into DHS. SB 374 passed the Senate on April 29 and was reported favorably, as amended, by the House Human Services Committee on May 4.