

- SUBJECT:** Requiring certain personal care facilities to register with DHS
- COMMITTEE:** Human Services — committee substitute recommended
- VOTE:** 8 ayes — Uresti, Naishtat, Wohlgemuth, Christian, McCall, Olivo, Reyna, Villarreal
- 0 nays
- 1 absent — Miller
- WITNESSES:** For — Jim Caldwell and Carlos Higgins, Texas Silver Haired Legislature; Heather Dyer, Texas Service Advocacy Coalition; Sid Rich, Texas Association of Residential Care Communities
- Against — None
- BACKGROUND:** The Texas Department of Human Services (DHS) regulates assisted living facilities under Health and Safety Code, ch. 247. These facilities furnish food, shelter, and personal care to four or more people who are unrelated to the proprietor. Personal care includes assistance with meals, dressing, movement, bathing, or other personal needs; administration of medication; or general supervision or oversight of a person’s physical and mental well-being. Such a facility must be licensed by DHS. A facility that provides similar services to three or fewer clients need not be licensed but may not use the term “assisted living facility” unless it obtains a license.
- A violation of this chapter or of an associated rule by a licensee may result in an injunction, an administrative penalty of up to \$1,000 per violation, or a civil penalty of between \$100 and \$10,000 for each violation.
- DIGEST:** CSHB 2420 would require the Board of Human Services to establish a classification and registration for a facility that provides food, shelter, and personal care services for three or fewer people who are not related to the proprietor. A person could not operate such a facility without being registered with DHS. To register, a person would have to submit an application and a fee of \$50 to DHS. Registration would last for two years.

Registered facilities would have to grant DHS or its designees access to ensure that residents had access to community services and benefit programs. DHS by rule could establish protocol for inquiries and visits to the facilities and for reporting cases of abuse, neglect, or exploitation. The Department of Protective and Regulatory Services (DPRS) could investigate cases of abuse, neglect, or exploitation at these facilities. DHS could suspend, deny, or revoke registration for a violation of the statute or of an associated rule. A person who operated a facility without a current registration or who violated the bill's provisions would be subject to the same remedies and penalties as provided for licensees under the chapter.

This bill would take effect September 1, 2003. The DHS board would have to adopt the necessary rules by January 1, 2004. No affected facility would have to register with DHS before March 1, 2004.

**SUPPORTERS
SAY:**

CSHB 2420 would enable DHS to identify smaller personal care facilities and to inspect these facilities to ensure the safety of elderly and disabled residents. Because these facilities are unlicensed, DHS does not know the location of many of these homes or the identities of their proprietors. After locating these facilities, DHS or DPRS could inspect them to prevent abuse, neglect, or exploitation of their residents.

The bill's purpose is not to close down good facilities and evict their residents but to provide oversight. It would not impose regulation on these facilities other than the requirement to register every two years and to allow the state to enter the premises to check on living conditions. Inspections would not be required but would be allowed as DHS or DPRS saw fit.

CSHB 2420 would improve the quality of life for residents by ensuring that these facilities would meet standards that society generally approves. Although many of these facilities are up to par, some have residents living in unacceptable conditions, and requiring registration would enable the state to root out such facilities. The registration fees would enable DHS and DPRS to absorb all implementation costs within existing resources.

**OPPONENTS
SAY:**

CSHB 2420 could put some small operators out of business. Many of these facilities have very small profit margins and would have to pass additional costs on to their residents. The bill could require these facilities, which now

are not unregulated, to comply with the regulations that are in place for larger facilities. Although many newer small facilities were built with these rules in mind, others were not. Many facilities, although they providing high-quality care to their residents, would find it economically unfeasible to comply with regulations designed for larger facilities. If they could not pass on the costs of compliance to their residents, many facilities would have to close.

Many facilities' residents are on fixed incomes and barely can afford housing. An increase in the cost of assisted living facilities may leave them nowhere affordable to go.

CSHB 2420 could be costly to the state. It would not be cost-effective to regulate facilities that serve fewer than four people per facility. Keeping track of thousands of these facilities could create a large administrative burden on DHS and could prevent the bill's purpose from being achieved. DHS finds it difficult to police the larger facilities it already regulates, and this bill would exacerbate the problem.

NOTES:

The committee substitute changed the filed version of HB 2420 by adding the requirement for a facility to grant DHS reasonable access.

The bill's fiscal note projects no significant fiscal implication to the state. DHS estimated that its implementation costs would be \$18,831 in general revenue through 2008, more than offset by registration fees.