

- SUBJECT:** Air conditioning in nursing homes and assisted living facilities
- COMMITTEE:** Human Services — committee substitute recommended
- VOTE:** 9 ayes — Uresti, Naishtat, Christian, McCall, Miller, Olivo, Reyna, Villarreal, Wohlgemuth
- 0 nays
- WITNESSES:** For — Bruce Bower, Texas Chapter of the National Academy of Elder Law Attorneys; John Hawkins, Texas Senior Advocacy Coalition; Lewis Marshall, TSHL; Marcia Rachofsky, American Jewish Conference; David Thomason, Texas Association of Homes and Services for the Aging
- Against — None
- BACKGROUND:** Nursing homes and assisted living facilities are residences for people who cannot live in their own homes. Both types of facilities offer help with daily living activities, but nursing homes also offer more extensive medical care. Both nursing homes and assisted living facilities are licensed and regulated by the Texas Department of Human Services. Ch. 242 of the Health and Safety Code regulates nursing homes, and ch. 247 regulates assisted living facilities.
- DHS rules govern the temperature in facilities. Nursing homes' cooling systems must be capable of maintaining a temperature suitable for the comfort of the residents in resident-use areas, per 40 TAC, pt. 1, ch. 19, subch. D, rule §19.321 (2)(b). Assisted living facilities must offer cooling and heating for occupant comfort. Under 40 TAC, pt. 1, ch. 92, subch. D, rule 92.62 (I)(10), conditioning systems must be capable of maintaining a temperature range of 68 degrees to 82 degrees in resident-use areas.
- DIGEST:** CSHB 867 would direct DHS to amend the rules and minimum standards for nursing homes and assisted living facilities to require those facilities to use adequate air conditioning systems. The air conditioning system would need to be able to maintain a comfortable temperature wherever residents were in the facility. The rules would be amended by January 1, 2004, but only would apply to new construction or renovation.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

It is hot in Texas, and elderly residents of nursing homes or assisted living facilities should not suffer without air conditioning. The current requirements are too general because a cooling system could be interpreted as fans or an open window, when really an air conditioning system is best.

The bill would not require homes to do anything differently than they are now. It only would apply to new construction and only would require a central air conditioning system or a substantially similar air conditioning system. If comparable homes nearby use a swamp cooler or other air conditioning system, that would be permitted for new construction as well.

It might be difficult for residents to obtain volunteer services in residences where the temperature is too warm. Few volunteers would want to spend time with elderly residents in a room without air conditioning. Because facilities are not required to have air conditioning, residents might go without companionship and other important benefits volunteers could bring.

**OPPONENTS
SAY:**

DHS rules already require a facility to ensure the temperature comfort of residents. If air conditioning really is the only system that would make residents comfortable, then the facility would have to have it. Air conditioning is not needed everywhere. For example, the low humidity and cooler nighttime temperatures in Lubbock make a swamp cooler and fans an acceptable cooling system in the summer.

Requiring new construction to have an air conditioning system could add cost to a new facility or renovation. Costs get passed on to residents and their insurers, including Medicare and Medicaid. The state should not unnecessarily increase the cost of nursing home or assisted living care.

NOTES:

The bill introduced differs from the committee substitute in that it would have made the requirements by statute rather than by rule, and the new requirements would have applied to new construction after August 31, 2003, rather than January 1, 2004.