

SUBJECT: In-person exit conferences following inspections of nursing homes

COMMITTEE: Human Services — favorable, without amendment

VOTE: 8 ayes — Hupp, Eissler, A. Allen, Gonzalez Toureilles, Goodman,
Naishtat, Paxton, Reyna

0 nays

1 absent — J. Davis

WITNESSES: For — Michael Crowe, The Texas Assisted Living Association; Sid Rich, Texas Association of Residential Care Communities; Carole Smith, Private Providers Association of Texas; (*Registered, but did not testify*: Anita Bradberry, Heather Vasek, Texas Association for Home Care; Hilary Dennis, Texas Medical Association; Tim Graves, Texas Health Care Association; Sharon Liggett, Emeritus; David Thomason, Texas Association of Homes and Services for the Aging)

Against — Beth Ferris, Texas Advocates for Nursing Home Residents; (*Registered, but did not testify*: Lee Spiller, Citizens Commission on Human Rights)

BACKGROUND: Health and Safety Code, chapters 242 and 247 authorize the Department of Aging and Disability Services (DADS, formerly a function of the Department of Human Services) to establish rules regulating the operations of nursing homes, convalescent homes, assisted living facilities, and other related institutions.

The department inspects homes to assess compliance with the state's nursing home regulations. Following an inspection, the department's representative is required to conduct an exit conference with the facility's management to review any violations found during the inspection. After the exit conference, if the inspector reviews his or her notes and determines that there are additional violations, a subsequent exit conference is required to go over the additional violations.

A nursing home is required to submit a plan to correct the violations to DADS within 10 days of receiving the final statement of violations.

DIGEST: HB 1503 would prohibit a DADS representative from conducting a subsequent exit conference by telephone, e-mail, or fax. It also would require assisted living facilities to submit a plan of correction within 10 days of receiving the final official statement of violations.

The bill would take effect September 1, 2005.

SUPPORTERS SAY: Exit conferences are so important that they should be conducted face-to-face. The consequences for violations can include de-certification or even litigation, high stakes for management of a nursing home. The exit conference is the only time management can offer additional information or supporting documents to help clarify whether a violation took place. That type of interaction cannot be conducted over the phone. A simple meeting between the inspector and management would ensure the process was fair and complete. DADS has sufficient resources to handle the requirements of the bill, and the fiscal note indicates that no additional funding would be needed to implement it.

OPPONENTS SAY: This bill unnecessarily would hamper the process of protecting nursing home residents. The system already is fair: inspectors must hold a second exit conference if they find additional violations and the nursing home can e-mail or fax additional information if it is needed. Requiring another face-to-face conference could compromise the health and safety of residents because it could involve a significant amount of staff time to travel again to the home, particularly in rural areas of the state. Staff resources, already stretched, would be diverted from other inspections, and the department might add violations less often so that inspections could be wrapped up more quickly. Neither scenario would be good for nursing home residents.

OTHER OPPONENTS SAY: There are other types of homes that would benefit from this requirement. Intermediate care facilities for the mentally retarded, known as ICF-MRs, are similar to nursing homes and fall under similar inspection policies. They too should benefit from requiring that additional exit conferences be held in person.