

- SUBJECT:** Defining a controlling person in operation of an assisted living facility
- COMMITTEE:** Human Services — committee substitute recommended
- VOTE:** 8 ayes — Rose, Darby, Elkins, Hernandez, Hughes, Legler, Naishtat, Walle
- 0 nays
- 1 absent — Herrero
- WITNESSES:** For — Diahn Burrows, Michael Crowe, and Rose Marie Vera, Texas Assisted Living Association; Ben Campbell, TORCH; (*Registered, but did not testify*: Tim Graves, Texas Health Care Association; Sid Rich, Texas Association of Residential Care Communities)
- Against — None
- BACKGROUND:** A “controlling person” in an assisted living facility is defined by Health and Safety Code, sec. 247.005(a) as a person who, acting alone or with others, has the ability to directly or indirectly influence or direct the management, expenditure of money, or policies of the facility.
- Health and Safety Code, sec. 247.005(b) states that a controlling person of an assisted living facility includes:
- a management company, landlord, or other business entity that operates or contracts with others to operate a facility;
 - a person who is a controlling person of a management company or other business entity that operates a facility or contracts with another to operate a facility; and
 - any other individual who, because of a personal, family, or other relationship with the owner, manager, landlord, tenant, or provider of a facility, is in a position of actual control or authority with respect to the facility, without regard to whether the individual is formally named as an owner, manager, director, officer, provider, contractor, or employee of the facility.

Applicants for initial assisted living facility licenses and renewals must provide personal information, including addresses, telephone, driver's license, and social security numbers, of individuals who are controlling persons.

The Department of Aging and Disability Services' interpretation of "controlling persons" in the statute has included any entity that lends money to or that owns more than a 5-percent equity interest in an entity that applies for an assisted living license. Reporting this information can be difficult for publicly traded companies whose stock is traded daily by large investment companies or for companies that have loans with national institutions. Processing this volume of information can delay applications for weeks or months, using department time and resources.

DIGEST:

CSHB 2972 would amend Health and Safety Code, sec. 247.005 to specify that a controlling person of an assisted living facility or of a management company or other business entity that operated or contracted to operate a facility and that was publicly traded or controlled by a publicly traded corporation would mean an officer or director of the corporation. The term would not include a shareholder or lender of the corporation.

The bill would take effect September 1, 2009.