

BILL ANALYSIS

Senate Research Center

H.B. 3100
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Health & Human Services
5-15-97
Engrossed

DIGEST

In 1983, Chapter 102 was added to the Human Resources Code delineating the rights of the elderly. The House Committee on Human Services Interim Study on Long-Term Care heard testimony from representatives of the Department on Aging's Elder Rights Task Force on the status of Chapter 102. The Task Force recommended changes that would recognize to a greater extent the right of the elderly to retain a greater amount of self-determination. This bill will provide additional regulations regarding the rights of the elderly.

PURPOSE

As proposed, H.B. 3100 provides additional regulations regarding the rights of the elderly.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 102, Human Resources Code, as follows:

CHAPTER 102. RIGHTS OF ELDERLY

Sec. 102.001. DEFINITIONS. Redefines "alternate care."

Sec. 102.002. PROHIBITION. Requires each agency that license, registers, or certifies a person providing services to require the person to implement and enforce this chapter. Provides that a violation of this chapter is grounds for suspension or revocation of the license, registration, or certification of a person providing services.

Sec. 102.003. RIGHTS OF THE ELDERLY. (a) Sets forth the general rights of the elderly. Makes conforming changes.

(b) Sets forth rights of the elderly regarding discrimination. Makes conforming changes.

(c) Sets forth rights of the elderly regarding physical treatment by others. Makes conforming changes.

(d) Authorizes a mentally retarded elderly individual with a court-appointed guardian of the person to participate in a behavior modification program involving use of restraints or adverse stimuli only with the informed consent of the guardian.

(e) Makes conforming changes.

(f) Sets forth rights of the elderly regarding complaints about their care or treatment. Makes conforming changes.

(g) Sets forth rights of the elderly regarding privacy. Makes conforming changes.

(h) Sets forth rights of the elderly regarding participation in certain activities. Makes conforming changes.

(i) Sets forth rights of the elderly regarding financial affairs. Makes conforming changes.

(j) Sets forth rights of the elderly regarding personal and clinical records. Makes conforming changes.

(k) Sets forth rights of the elderly regarding the individual's medical conditions. Makes conforming changes.

(l) Authorizes an individual to choose and retain a personal physician and is entitled to be fully informed in advance about treatment or care that may affect the individual's well-being.

(m) Authorizes an elderly individual to participate in an individual plan of care that described the individual's medical, nursing, and psychological needs and how the needs will be met. Makes conforming changes.

(n) Sets forth rights of the elderly regarding the refusal of medical treatment. Makes conforming changes.

(o) Sets forth rights of the elderly regarding personal possessions. Makes conforming changes.

(p) Authorizes any elderly individual to refuse to perform services for the person providing services. Makes conforming changes.

(q) Sets forth rights of the elderly regarding services performed for the individual. Makes conforming changes.

(r) Sets forth rights of the elderly regarding transfer or discharge of an individual receiving services. Makes conforming changes.

(s) Sets forth rights of the elderly regarding transfer or discharge from a residential facility. Makes conforming changes.

(t) Sets forth rights of the elderly regarding wills.

Sec. 102.004. LIST OF RIGHTS. Makes a conforming change.

Sec. 102.005. RIGHTS CUMULATIVE. Provides that the rights described in this chapter are cumulative of other rights or remedies to which an elderly individual may be entitled under law.

SECTION 2. (a) Effective date: September 1, 1997.

(b) Provides that the application of Chapter 102, Human Resources Code, to a person who on August 31, 1997, is considered to be an "elderly individual" under Chapter 102 is not affected by the change made by this Act in the age requirement under that chapter, and Chapter 102 continues to apply to such a person as if the age requirement has not changed.

SECTION 3. Emergency clause.