

SENATE BILL REPORT

E2SHB 2154

**AS REPORTED BY COMMITTEE ON HEALTH & HUMAN SERVICES,
FEBRUARY 24, 1994**

Brief Description: Providing protection for residents of long-term care facilities.

SPONSORS: House Committee on Appropriations (originally sponsored by Representatives R. Meyers, Valle, Carlson, Jones, Dellwo, Roland, Campbell, Dorn, Ogden, Kessler, Holm, Wineberry and Thibaudeau)

HOUSE COMMITTEE ON HEALTH CARE

HOUSE COMMITTEE ON APPROPRIATIONS

SENATE COMMITTEE ON HEALTH & HUMAN SERVICES

Majority Report: Do pass as amended.

Signed by Senators Talmadge, Chairman; Wojahn, Vice Chairman; Deccio, Erwin, Franklin, Fraser, Hargrove, McAuliffe, Moyer, Niemi, Prentice, L. Smith and Winsley.

Staff: Don Sloma (786-7319)

Hearing Dates: February 22, 1994; February 24, 1994

BACKGROUND:

Since 1987 all nursing home residents in our state have been protected by a set of basic rights concerning information, care, privacy, treatment, personal property and activities in the residence. Currently, however, these same rights do not uniformly exist in statute for other long-term care residential facilities such as boarding homes, adult family homes and veterans homes.

Those living in long-term care residences currently have the opportunity to have their complaints addressed by the State Long-term Care Ombudsman or the Department of Social and Health Services Complaint Resolution Program. The Long-Term Care Ombudsman Program trains, certifies and supervises volunteers who mediate, resolves concerns and complaints, and stops verbal and physical abuse for Washington's 50,000 citizens living in nursing homes, boarding homes and adult family homes. Last year, the program handled nearly 5,500 complaints with 170 volunteers.

Currently, there are no regulations that either discourage or require a nursing home to refund a portion of a private nursing home resident's deposit fee in the event the resident does not move into the nursing home. All nursing homes, except those who take only private-pay residents, are required

to provide the residents or their representatives full disclosure of deposits and fees upon admissions. There are no requirements regarding when deposits are to be returned to the residents or their representatives.

SUMMARY:

Most of the rights currently enjoyed by nursing home residents are extended to residents in veteran's homes, adult family homes and boarding homes and include the right:

to receive written notice of rights, periodic notice of services available and charges within the facility;

to access records within 24 hours, and to copy them at reasonable cost, within two days;

to protection of personal property;

to privacy and confidentiality;

to voice grievances;

to receive visitors, correspondence and phone calls in private;

to manage one's own personal funds, and, in veterans homes, if the facility is to manage personal funds, to follow procedures prescribed in the act;

to receive, and have family or guardians receive prior notice of accidents, transfers or discharges from the facility;

to remain in the facility unless certain conditions are met, and then, to receive prior written notice of transfer or discharge;

to receive care which enhances the quality of life, including the ability to have personal belongings, to wear one's own clothes and to share a double room with one's spouse when married residents live in the same facility;

to freedom from any physical or chemical restraints imposed for discipline or convenience; and the right

to freedom from physical, sexual, mental and verbal abuse.

Boarding homes can obtain criminal background information on their employees from the Department of Social and Health Services without charge, in the same way nursing homes and adult family homes obtain them. However, if this provision is not specifically referenced in the supplemental budget, it is null and void.

Specific procedures and limitations are established for minimum-stay fees and admission deposits. The facility's schedule of fees and collection procedures must be fully disclosed to residents upon admission. If admission contracts for nursing homes, boarding homes, adult family homes and veteran's homes are executed, their terms must be consistent with the statutory requirements of the act regarding fees, deposits and related procedures.

Long-term care facilities and nursing homes are prohibited from requiring residents to sign waivers of liability for the loss of personal property.

The Long-Term Care Ombudsman must monitor the implementation of the act and report to the Legislature by July 1, 1995.

The act does not restrict an agency or person from seeking a remedy provided by law or from obtaining additional relief based on the same facts.

The House of Representatives Health Care Committee must assess the potential impact of the act on administration of an integrated long-term care system for persons with functional disabilities and make recommendations to the House of Representatives by December 12, 1994.

SUMMARY OF PROPOSED COMMITTEE AMENDMENT:

Legislative intent is clarified that residents of long-term care facilities should have clean, safe, comfortable environments which enhance the quality of their lives.

The definition of physical restraint is qualified to include only those restraints which are "used for discipline or convenience and not required to treat the resident's medical symptoms."

The term "legal representative is modified to "representative" and means the person who is authorized to make medical decisions for incompetent persons under RCW 7.70.065.

The requirement to provide "periodic" notice of the rights and services available to residents is specified to be once every 24 months.

The provision which renders null and void any rule or regulation which unreasonably restricts the rights of a resident is deleted.

The standard for notifying the legal representatives and interested family members of injuries or changes in residents' conditions is reduced to "make reasonable efforts".

The standard for notifying interested family members of moves, transfers or discharges is also reduced to "make reasonable efforts."

The prohibition against hiring persons who are barred from employment because of prior convictions for certain offenses is removed.

Residents' rights related to quality of life are limited to being within the bounds of reasonable facility rules designed to protect the rights and quality of life of other residents.

Residents' rights to refuse medications, to refuse treatments, to make changes in their service plans and to refuse services must be documented in their records.

Legislative intent is specified that the remedies provided under the act are intended to be as informal as possible, relying on discussions with facility staff, facility and licensing grievance procedures, licensing agency action and other means. However, nothing in the act should be interpreted to either create or remove private causes of legal action, if they exist under other statutes or under common law, for violations of the provisions of the act.

The section is removed from the bill which would have rendered null and void the section on free criminal background checks if funds are not appropriated. Instead, the requirement that DSHS provide free criminal background checks on prospective employees of long-term care facilities is qualified as a requirement within available resources.

The House of Representatives study on the impact of the act on the development of the long-term care system is deleted.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

The bill is needed to extend the same human rights to frail, elderly and disabled people living in community settings those now living in nursing homes enjoy.

TESTIMONY AGAINST:

The bill goes too far in extending rights to residents of long-term care facilities. It makes it too difficult for facility operators to ensure a safe, quality environment for all residents, because some residents' rights may be exerted at the expense of others.

TESTIFIED: Evan Iverson, Senior Lobby (pro); Kary Hyre, Gordon Verrill, LTCOP (pro); Dennis Mahar, WA Area Agency of Aging Assn. (pro); Monte Powell (con)