

HOUSE BILL REPORT

HB 1364

As Passed House:

March 8, 2005

Title: An act relating to indemnifying and defending department of social and health services appointed temporary managers in nursing homes.

Brief Description: Requiring the department of social and health services to defend temporary managers in nursing homes.

Sponsors: By Representatives Green, Bailey and Cody; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Judiciary: 2/8/05, 2/11/05 [DP].

Floor Activity:

Passed House: 3/8/05, 95-0.

Brief Summary of Bill

- Requires the Department of Social and Health Services to indemnify, defend, and hold harmless temporary managers of nursing homes against claims for actions that are not intentional torts or criminal behavior.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 10 members: Representatives Lantz, Chair; Flannigan, Vice Chair; Williams, Vice Chair; Priest, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Campbell, Kirby, Serben, Springer and Wood.

Staff: Trudes Tango Hutcheson (786-7384).

Background:

The Department of Social and Health Services (DSHS) licenses nursing homes and monitors their compliance with state and federal regulations. If a nursing home is not in compliance with regulations, the DSHS may impose penalties, revoke the nursing home's license, and use other remedies to force compliance.

The DSHS may appoint a temporary manager to oversee the operation of the nursing home when the nursing home has a history of noncompliance, has a certain number of deficiencies

during one inspection, or has been unable to provide an acceptable plan to correct deficiencies.

When the DSHS appoints a temporary manager, the licensee must immediately turn over the operation of the nursing home to the temporary manager. The temporary manager must protect the health, security, and welfare of the residents, and may perform such acts as overseeing facility closure, temporarily relocating residents, managing employees, entering into contracts, and making expenditures.

The DSHS must terminate the temporary management after three months unless there is good cause to continue it.

A person or entity with experience in providing long-term care and a history of nursing home operation may apply to become a temporary manager.

An intentional tort generally requires that the person act with purpose or intent to achieve the result or that the person believed the consequences were substantially certain to result from the person's act. Intentional torts do not include acts that are considered negligent, grossly negligent, or reckless.

Summary of Bill:

The DSHS shall indemnify, defend, and hold harmless a temporary manager of a nursing home against claims made against the temporary manager for the temporary manager's or its agent's actions that are not intentional torts or criminal behavior.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The DSHS doesn't use temporary managers very often. Most nursing homes are able to comply with the standards, but if there is a crisis in a nursing home, the DSHS needs to be able to get a temporary manager in there quickly. Temporary managers have had a problem getting insurance because their job is to go into a facility that is already in trouble. The bill makes it clear that the state will cover the temporary managers.

Testimony Against: None.

Persons Testifying: Representative Green, prime sponsor; and Kathy Leitch, Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: None.