

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By \_\_\_\_\_

1 AMEND Senate Bill No. 82, Page 1, in the Title, Lines 2 and 3, by deleting the phrase "long-term  
2 care facilities" and inserting in lieu thereof the phrase "health care, with penalty provisions"; and  
3

4 Further amend said bill and page, Section 198.089, Line 9, by inserting immediately after all of said  
5 line the following:  
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7 "198.575. 1. Sections 198.575 to 198.605 shall be known and may be cited as the "Patient  
8 Monitoring Care Act".

9 2. As used in sections 198.575 to 198.605, the following terms shall mean:

10 (1) "Department", the department of health and senior services;

11 (2) "Facility", any residential care facility, assisted living facility, intermediate care facility,  
12 or skilled nursing facility;

13 (3) "Monitoring device", a surveillance instrument that broadcasts or records activity, but  
14 does not include a still camera;

15 (4) "Patient", a person who is a resident of a facility;

16 (5) "State ombudsman", the office of state ombudsman for long-term care facility residents  
17 created under section 192.2305;

18 (6) "Surrogate", a legal guardian or legally appointed health care proxy who is authorized to  
19 act on behalf of a patient.

20 198.578. 1. A patient or a surrogate may authorize installation and use of a monitoring  
21 device in a facility provided that:

22 (1) The facility is given notice of the installation;

23 (2) If the monitoring device records activity visually, such recording shall include a record of  
24 the date and time;

25 (3) The monitoring device and all installation and maintenance costs are paid for by the  
26 patient; and

27 (4) Written consent is given by each patient or surrogate of each patient occupying the same  
28 room.

29 2. The patient may establish and the facility shall accommodate limits on the use, including  
30 the time of operation, direction, focus or volume, of a monitoring device.

31 198.581. 1. At the time of admission to a facility, a patient shall be offered the option to  
32 have a monitoring device, and a record of the patient's authorization or choice not to have a  
33 monitoring device shall be kept by the facility and shall be made accessible to the state ombudsman.

34 2. After authorization, consent, and notice, a patient or surrogate may install, operate, and  
35 maintain a monitoring device in the patient's room at the patient's expense.

36 3. The facility shall cooperate to accommodate the installation of the monitoring device,

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1 provided the installation does not place undue burden on the facility.

2 4. The patient or surrogate shall be responsible for removal of the monitoring device, at the  
 3 patient's or surrogate's expense, upon discharge of the patient from the facility or upon the death of  
 4 the patient.

5 198.584. 1. Consent to the authorization for the installation and use of a monitoring device  
 6 may be given only by the patient or the surrogate.

7 2. Consent to the authorization for the installation and use of a monitoring device shall  
 8 include a release of liability for the facility for a violation of the patient's right to privacy insofar as  
 9 the use of the monitoring device is concerned.

10 3. A patient or the surrogate may reverse a choice to have or not have a monitoring device  
 11 installed and used at any time, after notice to the facility and to the state ombudsman upon a form  
 12 prescribed by the department.

13 198.587. The form for the authorization of installation and use of a monitoring device shall  
 14 provide for:

15 (1) Consent of the patient or the surrogate authorizing the installation and use of the  
 16 monitoring device;

17 (2) Notice to the facility of the patient's installation of a monitoring device and specifics as  
 18 to its type, function, and use;

19 (3) Consent of any other patient or that patient's surrogate sharing the same room;

20 (4) Notice of release from liability for privacy violation through the use of the monitoring  
 21 device; and

22 (5) Waiver of the patient's right to privacy in conjunction with the use of the monitoring  
 23 device.

24 198.590. 1. In any civil action against the facility, material obtained through the use of a  
 25 monitoring device shall not be used if the monitoring device was installed or used without the  
 26 knowledge of the facility or without the prescribed form.

27 2. Compliance with the provisions of sections 198.575 to 198.605 shall be a complete  
 28 defense against any civil or criminal action brought against the patient, surrogate, or facility for the  
 29 use or presence of a monitoring device.

30 198.593. Within six months of the effective date of sections 198.575 to 198.605, all facilities  
 31 shall provide to each patient or surrogate a form prescribed by the department explaining the  
 32 provisions of sections 198.575 to 198.605 and giving each patient or surrogate a choice to have a  
 33 monitoring device installed in the patient's room. Copies of the completed form shall be kept by the  
 34 facility and shall be made accessible to the state ombudsman.

35 198.596. The facility shall post a notice in a conspicuous place at the entrance to a room with  
 36 a monitoring device that a monitoring device is in use in that room of the facility.

37 198.599. The department shall promulgate rules to implement the provisions of sections  
 38 198.575 to 198.605. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
 39 created under the authority delegated in sections 198.575 to 198.605 shall become effective only if it  
 40 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section  
 41 536.028. Sections 198.575 to 198.605 and chapter 536 are nonseverable and if any of the powers  
 42 vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to  
 43 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
 44 authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

45 198.602. No person or patient shall be denied admission to or discharged from a facility or  
 46 be otherwise discriminated against or retaliated against because of a choice to authorize installation  
 47 and use of a monitoring device. Any person who violates this section shall be subject to a civil  
 48 penalty of up to ten thousand dollars per occurrence.

1        198.605. Any person other than a patient or surrogate found guilty of intentionally  
2 hampering, obstructing, tampering with, or destroying a monitoring device or a recording made by a  
3 monitoring device installed in a facility under sections 198.575 to 198.605 is guilty of a class D  
4 felony until December 31, 2016, and a class E felony beginning January 1, 2017."; and  
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6 Further amend said bill by amending the title, enacting clause, and intersectional references  
7 accordingly.