

House _____ Amendment NO. _____

Offered By

AMEND House Committee Substitute for House Bill No. 760, Page 1, In the Title, Line 3, by deleting the words "reimbursement allowance taxes" and inserting in lieu thereof "health care"; and
Further amend said bill and page, Section 198.439, Line 1, by inserting immediately after all of said section and line the following:

"198.575. 1. Sections 198.575 to 198.605 shall be known and may be cited as the "Patient Monitoring Care Act".

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

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

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

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

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

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

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

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

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

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

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

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

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

198.581. 1. At the time of admission to a facility, a patient shall be offered the option to

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1 have a monitoring device, and a record of the patient's authorization or choice not to have a
2 monitoring device shall be kept by the facility and shall be made accessible to the state ombudsman.

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

5 3. The facility shall cooperate to accommodate the installation of the monitoring device,
6 provided the installation does not place undue burden on the facility.

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

10 198.584. 1. Consent to the authorization for the installation and use of a monitoring device
11 may be given only by the patient or the surrogate.

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

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

18 198.587. The form for the authorization of installation and use of a monitoring device shall
19 provide for:

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

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

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

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

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

29 198.590. 1. In any civil action against the facility, material obtained through the use of a
30 monitoring device shall not be used if the monitoring device was installed or used without the
31 knowledge of the facility or without the prescribed form.

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

35 198.593. Within six months of the effective date of sections 198.575 to 198.605, all facilities
36 shall provide to each patient or surrogate a form prescribed by the department explaining the
37 provisions of sections 198.575 to 198.605 and giving each patient or surrogate a choice to have a
38 monitoring device installed in the patient's room. Copies of the completed form shall be kept by the
39 facility and shall be made accessible to the state ombudsman.

40 198.596. The facility shall post a notice in a conspicuous place at the entrance to a room with
41 a monitoring device that a monitoring device is in use in that room of the facility.

1 198.599. The department shall promulgate rules to implement the provisions of sections
2 198.575 to 198.605. Any rule or portion of a rule, as that term is defined in section 536.010, that is
3 created under the authority delegated in sections 198.575 to 198.605 shall become effective only if it
4 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
5 536.028. Sections 198.575 to 198.605 and chapter 536 are nonseverable and if any of the powers
6 vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to
7 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
8 authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

9 198.602. No person or patient shall be denied admission to or discharged from a facility or
10 be otherwise discriminated against or retaliated against because of a choice to authorize installation
11 and use of a monitoring device. Any person who violates this section shall be subject to a civil
12 penalty of up to ten thousand dollars per occurrence.

13 198.605. Any person other than a patient or surrogate found guilty of intentionally
14 hampering, obstructing, tampering with, or destroying a monitoring device or a recording made by a
15 monitoring device installed in a facility under sections 198.575 to 198.605 is guilty of a class D
16 felony until December 31, 2016, and a class E felony beginning January 1, 2017."; and

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18 Further amend said bill by amending the title, enacting clause, and intersectional references
19 accordingly.
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