

FIFTY-THIRD LEGISLATURE
FIRST SESSION, 2017

SB 171/a

February 14, 2017

Mr. President:

Your **PUBLIC AFFAIRS COMMITTEE**, to whom has been referred

SENATE BILL 171

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 2, between lines 17 and 18, insert the following new subsection:

"E. "informed consent" means an agreement by a resident or a resident's surrogate decision-maker to allow a disclosure of information, made with full knowledge of the risks involved and the available alternatives, that is made in writing or through the use of auxiliary aids and services or communicated by a resident or a resident's surrogate decision-maker orally, visually or through the use of auxiliary aids and services and such consent is documented contemporaneously by a representative of the office;"

2. Reletter the succeeding subsections accordingly.

3. On page 5, strike lines 9 through 23 in their entirety and insert in lieu thereof:

"abuse, neglect or exploitation of a resident of a long-term care facility is witnessed or suspected, the state ombudsman or an ombudsman shall personally discuss the matter with the resident, or, if the resident is unable to communicate informed consent, the resident's surrogate decision-maker, if applicable, and:

(1) if the resident communicates informed consent to referral and disclosure of identifying information to the long-term care facility, law enforcement or one or more of the entities listed in Subsection B of this section, the state ombudsman or an ombudsman shall assist the resident in reporting the allegation, or the state ombudsman or an ombudsman shall make the report directly. The

**FIFTY-THIRD LEGISLATURE
FIRST SESSION, 2017**

SPAC/SB 171

Page 2

method of reporting is at the sole discretion of the resident, though the state ombudsman or an ombudsman may counsel the resident regarding the method of reporting. If the resident is capable of informed consent and chooses not to refer the matter and not to disclose identifying information, the state ombudsman or an ombudsman shall not make a referral or disclose this information;

(2) if the state ombudsman or an ombudsman determines that the resident is not able to communicate informed consent, the state ombudsman or the ombudsman shall consult with the resident's surrogate decision-maker, if any. If the surrogate decision-maker chooses to make a referral and disclose relevant identifying information with respect to the resident, the state ombudsman or an ombudsman shall assist the surrogate decision-maker in reporting the allegation or the state ombudsman or an ombudsman shall make the report directly. The method of reporting is at the sole discretion of the resident's surrogate decision-maker, though the state ombudsman or an ombudsman may counsel the surrogate decision-maker regarding the method of reporting. If the surrogate decision-maker chooses not to refer the matter and not to disclose identifying information, the state ombudsman or an ombudsman shall not make a referral or disclose this information unless the state ombudsman or the ombudsman has reasonable cause to believe that the surrogate decision-maker has taken an action, failed to act or made a decision that may adversely affect the health, safety, welfare or rights of the resident, in which case, the state ombudsman or the ombudsman shall follow the procedure established in Paragraph (3) of this subsection as if the resident did not have a surrogate decision-maker; or

(3) if the state ombudsman or an ombudsman determines that the resident is not able to communicate informed consent and does not have a surrogate decision-maker, an ombudsman, with the consent of the state ombudsman, may make a referral and disclose relevant identifying information about the resident if the state ombudsman or the ombudsman has reasonable cause to believe that it is in the best interest of the resident to make a referral and has

FIFTY-THIRD LEGISLATURE
FIRST SESSION, 2017

SPAC/SB 171

Page 3

no evidence indicating that the resident would not want a referral to be made. In the event that these conditions are met and the abuse, neglect or exploitation has been personally witnessed by the state ombudsman or an ombudsman, the state ombudsman or the ombudsman shall make the report and the disclosure directly to the long-term care facility, law enforcement or the entities set forth in Subsection B of this section.".,

and thence referred to the **JUDICIARY COMMITTEE.**

Respectfully submitted,

Gerald Ortiz y Pino, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: None

Absent: None