

AN ACT

relating to in-person visitation with hospital patients during certain periods of disaster.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 241, Health and Safety Code, is amended by adding Section 241.012 to read as follows:

Sec. 241.012. IN-PERSON HOSPITAL VISITATION DURING PERIOD OF DISASTER. (a) In this section:

(1) "Hospital" means a hospital licensed under this chapter.

(2) "Qualifying official disaster order" means an order, proclamation, or other instrument issued by the governor, another official of this state, or the governing body or an official of a political subdivision of this state declaring a disaster that has infectious disease as the basis for the declared disaster.

(3) "Qualifying period of disaster" means the period of time the area in which a hospital is located is declared to be a disaster area by a qualifying official disaster order.

(4) "Religious counselor" means an individual acting substantially in a pastoral or religious capacity to provide spiritual counsel to other individuals.

(b) A hospital may not during a qualifying period of disaster prohibit in-person visitation with a patient receiving care or treatment at the hospital unless federal law or a federal

1 agency requires the hospital to prohibit in-person visitation  
2 during that period.

3 (c) Notwithstanding Subsection (b), a hospital may during a  
4 qualifying period of disaster:

5 (1) restrict the number of visitors a patient  
6 receiving care or treatment at the hospital may receive to not fewer  
7 than one;

8 (2) require a visitor to the hospital to:

9 (A) complete a health screening before entering  
10 the hospital; and

11 (B) wear personal protective equipment at all  
12 times while visiting a patient at the hospital; and

13 (3) deny entry to or remove from the hospital's  
14 premises a visitor who fails or refuses to:

15 (A) submit to or meet the requirements of a  
16 health screening administered by the hospital; or

17 (B) wear personal protective equipment that  
18 meets the hospital's infection control and safety requirements in  
19 the manner prescribed by the hospital.

20 (d) A health screening administered by a hospital under this  
21 section must be conducted in a manner that, at a minimum, complies  
22 with:

23 (1) hospital policy; and

24 (2) if applicable, guidance or directives issued by  
25 the commission, the Centers for Medicare and Medicaid Services, or  
26 another agency with regulatory authority over the hospital.

27 (e) Notwithstanding any other law, neither a hospital nor a

1 physician providing health care services on the hospital's premises  
2 is subject to civil or criminal liability or an administrative  
3 penalty if a visitor contracts an infectious disease while on the  
4 hospital's premises during a qualifying period of disaster or, in  
5 connection with a visit to the hospital, spreads an infectious  
6 disease to any other individual, except where intentional  
7 misconduct or gross negligence by the hospital or the physician is  
8 shown. A physician who in good faith takes, or fails to take, an  
9 action under this section is not subject to civil or criminal  
10 liability or disciplinary action for the physician's action or  
11 failure to act under this section.

12 (f) This section may not be construed as requiring a  
13 hospital to:

14 (1) provide a specific type of personal protective  
15 equipment to a visitor to the hospital; or

16 (2) allow in-person visitation with a patient  
17 receiving care or treatment at the hospital if an attending  
18 physician determines that in-person visitation with that patient  
19 may lead to the transmission of an infectious agent that poses a  
20 serious community health risk.

21 (g) A determination made by an attending physician under  
22 Subsection (f)(2) is valid for not more than five days after the  
23 date the determination is made unless renewed by an attending  
24 physician.

25 (h) If a visitor to a hospital is denied in-person  
26 visitation with a patient receiving care or treatment at a hospital  
27 because of a determination made by an attending physician under

1 Subsection (f)(2), the hospital shall:

2 (1) provide each day a written or oral update of the  
3 patient's condition to the visitor if the visitor:

4 (A) is authorized by the patient to receive  
5 relevant health information regarding the patient;

6 (B) has authority to receive the patient's health  
7 information under an advance directive or medical power of  
8 attorney; or

9 (C) is otherwise the patient's surrogate  
10 decision-maker regarding the patient's health care needs under  
11 hospital policy and other applicable law; and

12 (2) notify the person who receives the daily update  
13 required under Subdivision (1) of the estimated date and time at  
14 which the patient will be discharged from the hospital.

15 (i) Notwithstanding any other provision of this section, a  
16 hospital may not prohibit in-person visitation by a religious  
17 counselor with a patient who is receiving care or treatment at the  
18 hospital and who is seriously ill or dying for a reason other than  
19 the religious counselor's failure to comply with a requirement  
20 described by Subsection (c)(2).

21 (j) In the event of a conflict between this section and any  
22 provision of a qualifying official disaster order, this section  
23 prevails.

24 (k) This section does not create a cause of action against a  
25 hospital or physician.

26 SECTION 2. This Act takes effect September 1, 2021.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2211 was passed by the House on April 16, 2021, by the following vote: Yeas 140, Nays 5, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2211 on May 28, 2021, by the following vote: Yeas 143, Nays 1, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2211 was passed by the Senate, with amendments, on May 25, 2021, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor