

A BILL TO BE ENTITLED

AN ACT

relating to members of the clergy who are employed or voluntarily enter inpatient health care facilities to minister during a state of disaster, emergency, or epidemic.

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

SECTION 1. The purpose of this section is to protect the religious liberty of each patient or resident and to protect inpatient health care facilities from costly lawsuits and administrative complaints on the basis of religious discrimination by affording patient or resident access to members of the clergy provided that those members of the clergy enter the inpatient health care facility and comply with the safety requirements of the facility in order to visit and minister to the patient or resident.

SECTION 2. Chapter 81, Health and Safety Code, is amended by adding Section 89.010 to read as follows:

Sec. 81.010. DEFINITIONS. In this section:

(1) "Inpatient health care facilities" means all of the following:

(A) A hospital licensed pursuant to Chapter 241, Health and Safety Code.

(B) A nursing home, nursing facility, or skilled nursing facility licensed pursuant to Chapter 242, Health and Safety Code.

(C) A continuing care facility, as defined in

1 Chapter 246, Health and Safety Code.

2 (D) An assisted living facility, as defined in
3 Chapter 247, Health and Safety Code.

4 (E) A special care facility, as defined in
5 Chapter 248, Health and Safety Code.

6 (2) "Patient" means the patient of the hospital or the
7 legal or designated representative of the patient.

8 (3) "Resident" means a person who resides or receives
9 services at a nursing home, nursing facility, skilled nursing
10 facility, a continuing care facility, an assisted living facility,
11 or a special care facility or the legal or designated
12 representative of the resident.

13 (4) "Public health emergency" means a state of
14 disaster that is declared pursuant to the Texas Disaster Act,
15 Chapter 418, Government Code, or a state of public health disaster
16 imposed in accordance with Section 81.082(d), Texas Health and
17 Safety Code.

18 Sec. 81.0101. VISITATION BY MEMBERS OF CLERGY DURING
19 DECLARED STATE OF DISASTER, EMERGENCY, OR EPIDEMIC. (a) The
20 executive commissioner shall promulgate rules, pursuant to the
21 Administrative Procedure Act, Chapter 2001, Government Code, to
22 require inpatient health care facilities to allow members of the
23 clergy to visit patients or residents during a public health
24 emergency whenever a patient or resident requests such a visit.
25 Special consideration shall be given to patients or residents
26 receiving end-of-life care.

27 (b) The rules shall include but not be limited to

1 definitions, minimum requirements, and provisions to protect the
2 health, safety, and welfare of the patients or residents and the
3 staff of the inpatient health care facility.

4 (c) The rules shall allow inpatient health care facilities
5 to adopt reasonable time, place, and manner restrictions on patient
6 or resident visitation that are implemented for the purpose of
7 mitigating the possibility of transmission of any infectious agent
8 or disease or to address the medical condition or clinical
9 considerations of an individual patient or resident.

10 (d) The rules promulgated pursuant to this section shall be
11 preempted by any federal statute, federal regulation, or guidance
12 from a federal government agency that requires an inpatient health
13 care facility to restrict patient visitation in a manner that is
14 more restrictive than the rules adopted by the Texas Department of
15 State Health Services pursuant to this section.

16 SECTION 3. Nothing in this Act shall be interpreted to
17 prohibit or restrict any inpatient health care facility from
18 allowing clergy to visit or minister to patients or residents in a
19 manner deemed appropriate by the inpatient health care facility
20 prior to the effective date of the rules which are to be implemented
21 by the Texas Department of State Health Services.

22 SECTION 4. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2021.