

By: Miles, et al. S.B. No. 1876
(Oliverson, Bucy, Campos, A. Johnson of Harris, Walle)

Substitute the following for S.B. No. 1876:

By: Klick C.S.S.B. No. 1876

A BILL TO BE ENTITLED

AN ACT

relating to emergency planning for the continued treatment and safety of end stage renal disease facility patients.

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

SECTION 1. Subchapter B, Chapter 251, Health and Safety Code, is amended by adding Sections 251.016 and 251.017 to read as follows:

Sec. 251.016. EMERGENCY PREPAREDNESS AND CONTINGENCY OPERATIONS PLANNING. (a) In this section and Section 251.017, "emergency" means an incident likely to threaten the health, welfare, or safety of end stage renal disease facility patients or staff or the public, including a fire, equipment failure, power outage, flood, interruption in utility service, medical emergency, or natural or other disaster.

(b) Each end stage renal disease facility shall adopt a written emergency preparedness and contingency operations plan to address the provision of care during an emergency. The plan must:

(1) be updated annually and approved by the facility's leadership each time the plan is updated;

(2) include procedures for notifying each of the following entities as soon as practicable regarding the closure or reduction in hours of operation of the facility due to an emergency:

(A) the department;

(B) each hospital with which the facility has a

1 transfer agreement;

2 (C) the trauma service area regional advisory
3 council that serves the geographic area in which the facility is
4 located; and

5 (D) each applicable local emergency management
6 agency;

7 (3) except as provided by Subsection (d), require the
8 facility to execute a contract with another end stage renal disease
9 facility located within a 100-mile radius of the facility
10 stipulating that the other end stage renal disease facility will
11 provide dialysis treatment to facility patients who are unable to
12 receive scheduled dialysis treatment due to the facility's closure
13 or reduction in hours; and

14 (4) include a documented patient communications plan
15 that includes procedures for notifying a patient when that
16 patient's scheduled dialysis treatment is interrupted.

17 (c) As part of the emergency preparedness and contingency
18 operations plan adopted under Subsection (b), each end stage renal
19 disease facility shall develop and the facility's leadership must
20 approve a continuity of care plan for the provision of dialysis
21 treatment to facility patients during an emergency. The facility
22 must provide a copy of the plan to each patient before providing or
23 scheduling dialysis treatment. The plan must include:

24 (1) procedures for distributing written materials to
25 facility patients that specifically describe the facility's
26 emergency preparedness and contingency operations plan adopted
27 under Subsection (b); and

1 (2) detailed procedures, based on the facility's
2 patient population, on the facility's contingency plans, including
3 transportation options, for patients to access dialysis treatment
4 at each end stage renal disease facility with which the facility has
5 an agreement or made advance preparations to ensure that the
6 facility's patients have the option to receive dialysis treatment.

7 (d) An end stage renal disease facility is not required to
8 contract with another end stage renal disease facility under
9 Subsection (b)(3) if:

10 (1) no other end stage renal disease facility is
11 located within a 100-mile radius of the facility; and

12 (2) the facility obtains written approval from the
13 department exempting the facility from that requirement.

14 (e) On request, an end stage renal disease facility shall
15 provide the facility's emergency preparedness and contingency
16 operations plan adopted under Subsection (b) to:

17 (1) the department;

18 (2) each hospital with which the facility has a
19 transfer agreement;

20 (3) the trauma service area regional advisory council
21 that serves the geographic area in which the facility is located;
22 and

23 (4) each applicable local emergency management
24 agency.

25 (f) Each end stage renal disease facility shall provide
26 annual training to facility staff on the facility's emergency
27 preparedness and contingency operations plan under this section.

1 (g) Each end stage renal disease facility shall annually
2 contact a local and state disaster management representative, an
3 emergency operations center, and a trauma service area regional
4 advisory council to:

5 (1) request comments on whether the emergency
6 preparedness and contingency operations plan adopted by the
7 facility under Subsection (b) should be modified; and

8 (2) ensure that local agencies, regional agencies,
9 state agencies, and hospitals are aware of the facility, the
10 facility's policy on provision of life-saving treatment, the
11 facility's patient population and potential transportation needs,
12 and the anticipated number of patients affected.

13 Sec. 251.017. EMERGENCY CONTINGENCY PLAN FOR POWER AND
14 POTABLE WATER. (a) Each end stage renal disease facility shall
15 adopt an emergency contingency plan for the continuity of essential
16 building systems during an emergency. A plan adopted by a facility
17 under this subsection must meet the requirements described by
18 Subsection (b), (d), or (e).

19 (b) Unless the facility adopts a plan described by
20 Subsection (d) or (e), an end stage renal disease facility must
21 adopt an emergency contingency plan as required by Subsection (a)
22 under which the facility is required:

23 (1) to have an on-site emergency generator that:

24 (A) has a type 2 essential electrical
25 distribution system in accordance with the National Fire Protection
26 Association 99, Section 4.5, and the National Fire Protection
27 Association 110;

1 (B) is installed, tested, and maintained in
2 accordance with the National Fire Protection Association 99,
3 Section 4.5.4, and the National Fire Protection Association 110;
4 and

5 (C) is kept at all times not less than 10 feet
6 from the electrical transformer;

7 (2) except as provided by Subsection (c), to maintain
8 an on-site fuel source that contains enough fuel capacity to power
9 the on-site generator for not less than 24 hours, as determined by
10 the electrical load demand on the emergency generator for that
11 period;

12 (3) to maintain a sufficient quantity of potable water
13 on-site to operate the facility's water treatment system for not
14 less than 24 hours; and

15 (4) to maintain a water valve connection that allows
16 an outside vendor to provide potable water to operate the
17 facility's water treatment system.

18 (c) An end stage renal disease facility that adopts an
19 emergency contingency plan under Subsection (b) is not required to
20 maintain an on-site fuel source described by Subsection (b)(2) if
21 the facility's on-site emergency generator uses a vapor liquefied
22 petroleum gas system with a dedicated fuel supply.

23 (d) Unless the facility adopts a plan described by
24 Subsection (b) or (e), an end stage renal disease facility must
25 adopt an emergency contingency plan as required by Subsection (a)
26 under which the facility is required:

27 (1) to maintain sufficient resources to provide on

1 demand or to execute a contract with an outside supplier or vendor
2 to provide on demand:

3 (A) a portable emergency generator that:

4 (i) has an electrical transfer switch with
5 a plug-in device to provide emergency power for patient care areas
6 and complies with National Fire Protection Association 99, Section
7 4.5.2.2.2; and

8 (ii) has a water valve connection that
9 allows for the use of potable water to operate the facility's water
10 treatment system;

11 (B) an alternate power source for light,
12 including battery-powered light, that:

13 (i) is separate and independent from the
14 normal electrical power source;

15 (ii) is capable of providing light for not
16 less than one and a half hours;

17 (iii) is capable of providing a sufficient
18 amount of light to allow for the safe evacuation of the building;
19 and

20 (iv) is maintained and tested not less than
21 four times each year; and

22 (C) potable water;

23 (2) to implement the plan when the facility loses
24 electrical power due to a natural or man-made event during which the
25 electrical power may not be restored within 24 hours; and

26 (3) to contact the outside supplier or vendor with
27 which the facility contracts under Subdivision (1), if applicable,

1 not later than 36 hours after the facility loses electrical power.

2 (e) Unless the facility adopts a plan described by
3 Subsection (b) or (d), an end stage renal disease facility must
4 adopt an emergency contingency plan as required by Subsection (a)
5 under which the facility is required to execute a contract with
6 another end stage renal disease facility that is located within a
7 100-mile radius of the facility stipulating that the other end
8 stage renal disease facility will provide emergency contingency
9 care to the facility's patients. The other end stage renal disease
10 facility with which the facility contracts must have an alternate
11 power source for light, including battery-powered light, that:

12 (1) is separate and independent from the normal
13 electrical power source;

14 (2) is capable of providing light for not less than one
15 and a half hours;

16 (3) is capable of providing a sufficient amount of
17 light to allow for the safe evacuation of the building; and

18 (4) is maintained and tested not less than four times
19 each year.

20 SECTION 2. Section 773.112, Health and Safety Code, is
21 amended by adding Subsection (d) to read as follows:

22 (d) Consistent with rules adopted under this section, the
23 executive commissioner by rule shall require that each applicable
24 emergency medical services medical director approve protocols that
25 give preference to the emergency transfer of a dialysis patient
26 from the patient's location directly to an outpatient end stage
27 renal disease facility during a declared disaster. For purposes of

1 this subsection:

2 (1) "Disaster" has the meaning assigned by Section
3 418.004, Government Code. The term includes a disaster declared
4 by:

5 (A) the president of the United States under the
6 Robert T. Stafford Disaster Relief and Emergency Assistance Act (42
7 U.S.C. Section 5121 et seq.); and

8 (B) the governor under Section 418.014,
9 Government Code.

10 (2) "End stage renal disease facility" has the meaning
11 assigned by Section 251.001.

12 SECTION 3. Sections 38.072(a) and (b), Utilities Code, are
13 amended to read as follows:

14 (a) In this section:

15 (1) "Assisted living facility" has the meaning
16 assigned by Section 247.002, Health and Safety Code.

17 (2) "End stage renal disease facility" has the meaning
18 assigned by Section 251.001, Health and Safety Code.

19 (3) "Extended power outage" has the meaning assigned
20 by Section 13.1395, Water Code.

21 (4) [~~3~~] "Hospice services" has the meaning assigned
22 by Section 142.001, Health and Safety Code.

23 (5) [~~4~~] "Nursing facility" has the meaning assigned
24 by Section 242.301, Health and Safety Code.

25 (b) The commission by rule shall require an electric utility
26 to give to the following the same priority that it gives to a
27 hospital in the utility's emergency operations plan for restoring

1 power after an extended power outage:

- 2 (1) a nursing facility;
- 3 (2) an assisted living facility; ~~and~~
- 4 (3) an end stage renal disease facility; and
- 5 (4) a facility that provides hospice services.

6 SECTION 4. Section 13.1395, Water Code, is amended by
7 adding Subsection (c-1) to read as follows:

8 (c-1) An emergency preparedness plan submitted under
9 Subsection (b) may provide for the prioritization of water
10 restoration to an end stage renal disease facility, as that term is
11 defined by Section 251.001, Health and Safety Code, in the same
12 manner as an affected utility restores service to a hospital
13 following an extended power outage. The affected utility must
14 restore the service in accordance with:

- 15 (1) the facility's needs;
- 16 (2) the affected community's needs; and
- 17 (3) the characteristics of the geographic area in
18 which water is to be restored.

19 SECTION 5. As soon as practicable after the effective date
20 of this Act:

- 21 (1) each end stage renal disease facility shall
22 develop and implement the plans required under Sections 251.016 and
23 251.017, Health and Safety Code, as added by this Act;
- 24 (2) the executive commissioner of the Health and Human
25 Services Commission shall adopt the rules required by Section
26 773.112(d), Health and Safety Code, as added by this Act; and
- 27 (3) the Public Utility Commission of Texas shall adopt

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1 the rules required by Section 38.072, Utilities Code, as amended by
2 this Act.

3 SECTION 6. This Act takes effect September 1, 2021.