

## **BILL ANALYSIS**

C.S.S.B. 1876  
By: Miles  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

During weather-related emergencies, such as Winter Storm Uri, many end stage renal disease facilities, commonly known as dialysis centers, are forced to close their doors, leaving end stage renal disease patients with missed appointments and lack of access to needed dialysis care. When patients are unable to access routine dialysis treatment, their conditions worsen, and they can be left to seek hospital care. C.S.S.B. 1876 seeks to remedy this situation and update the current law relating to emergency planning for the continued treatment and safety of end stage renal disease facility patients by requiring end stage renal disease facilities to adopt a written emergency preparedness and contingency operations plan and by providing for the prioritization of power to such facilities so that they are on par with hospitals, nursing homes, assisted living facilities, and hospices.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 of this bill and to the Public Utility Commission of Texas in SECTION 3 of this bill.

### **ANALYSIS**

C.S.S.B. 1876 amends the Health and Safety Code to require each end stage renal disease facility to adopt a written emergency preparedness and contingency operations plan to address the provision of care during an emergency that is likely to threaten the health, welfare, or safety of facility patients or staff or the public. The bill sets out the required contents of the plan, including a requirement for the facility to execute a contract with another facility located within a 100-mile radius of the facility stipulating that the other facility will provide dialysis treatment to facility patients who are unable to receive scheduled dialysis treatment due to the facility's closure or reduction in hours. An end stage renal disease facility is not required to contract with another facility under the following conditions:

- no other end stage renal disease facility is located within a 100-mile radius of the facility; and
- the facility obtains written approval from the Department of State Health Services (DSHS) exempting the facility from that requirement.

C.S.S.B. 1876 requires each end stage renal disease facility, as part of the emergency preparedness and contingency operations plan, to develop, and the facility's leadership to approve, a continuity of care plan for the provision of dialysis treatment to facility patients during an emergency. The bill sets out the required contents of the continuity of care plan and

requires the facility to provide a copy of the plan to each patient before providing or scheduling dialysis treatment. The bill requires a facility to provide on request the facility's emergency preparedness and contingency operations plan to:

- DSHS;
- each hospital with which the facility has a transfer agreement;
- the trauma service area regional advisory council that serves the geographic area in which the facility is located; and
- each applicable local emergency management agency.

C.S.S.B. 1876 requires each end stage renal disease facility to provide annual training to facility staff on the facility's emergency preparedness and contingency operations plan and to annually contact a local and state disaster management representative, an emergency operations center, and a trauma service area regional advisory council in order to do the following:

- request comments on whether the plan adopted by the facility should be modified; and
- ensure that local agencies, regional agencies, state agencies, and hospitals are aware of the facility, the facility's policy on provision of life-saving treatment, the facility's patient population and potential transportation needs, and the anticipated number of patients affected.

C.S.S.B. 1876 requires each end stage renal disease facility to adopt one of the following emergency contingency plans for the continuity of essential building systems during an emergency:

- a plan under which the facility is required to do the following:
  - have an on-site emergency generator that meets requirements prescribed by the bill and maintain a certain on-site fuel source, unless the facility's generator uses a vapor liquefied petroleum gas system with a dedicated fuel supply;
  - maintain a sufficient quantity of potable water on-site to operate the facility's water treatment system for not less than 24 hours; and
  - maintain a water valve connection that allows an outside vendor to provide potable water to operate the facility's water treatment system;
- a plan under which the facility is required to do the following:
  - maintain sufficient resources to provide on demand or to execute a contract with an outside supplier or vendor to provide on demand a portable emergency generator that meets requirements prescribed by the bill, a certain alternate power source for light, and potable water;
  - implement the plan when the facility loses electrical power due to a natural or man-made event during which the electrical power may not be restored within 24 hours; and
  - contact the outside supplier or vendor with which the facility contracts, if applicable, not later than 36 hours after the facility loses electrical power; or
- a plan under which the facility is required to do the following:
  - execute a contract with another facility that is located within a 100-mile radius of the facility stipulating that the other facility will provide emergency contingency care to the facility's patients and also have an alternate power source for light that meets certain requirements prescribed by the bill.

C.S.S.B. 1876 requires the executive commissioner of the Health and Human Services Commission by rule, consistent with the rules regarding the minimum standards and objectives for emergency medical services and trauma care systems, to require that each applicable emergency medical services medical director approve protocols that give preference to the emergency transfer of a dialysis patient from the patient's location directly to an outpatient end stage renal disease facility during a disaster declared by the president of the United States under the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act or by the governor under the Texas Disaster Act of 1975.

C.S.S.B. 1876 amends the Utilities Code to include an end stage renal disease facility among the health care facilities for which the Public Utility Commission of Texas (PUC) is required by rule to require an electric utility to give to the same priority that it gives to a hospital in the utility's emergency operations plan for restoring power after an extended power outage.

C.S.S.B. 1876 amends the Water Code to authorize an emergency preparedness plan submitted to the Texas Commission on Environmental Quality by an affected utility that demonstrates the utility's ability to provide emergency operation of its water system during a natural disaster to provide for the prioritization of water restoration to an end stage renal disease facility in the same manner as an affected utility restores service to a hospital following an extended power outage. The affected utility must restore the service in accordance with the following:

- the facility's needs;
- the affected community's needs; and
- the characteristics of the geographic area in which water is to be restored.

C.S.S.B. 1876 requires the executive commissioner to adopt the rules required by the bill's provisions relating to the required approval of protocols that give preference to the emergency transfer of a dialysis patient and requires the PUC to adopt the rules required by the bill's provisions relating to priorities for power restoration to certain medical facilities.

### **EFFECTIVE DATE**

September 1, 2021.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1876 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute contains the following not included in the engrossed:

- a provision that includes each applicable local emergency management agency as an additional entity to which an end stage renal disease facility is required to provide the facility's emergency preparedness and contingency operations plan; and
- a requirement for each such facility to annually contact the applicable entities to ensure that local agencies, regional agencies, state agencies, and hospitals are aware of the facility's potential transportation needs.

Whereas the engrossed required the executive commissioner by rule to authorize the emergency transfer of a dialysis patient during a declared disaster, the substitute does not. Instead, the substitute requires that each applicable emergency medical services medical director approve protocols that give preference to the emergency transfer during a declared disaster.