87R3355 JG-D

By:  Sanford H.B. No. 2324

A BILL TO BE ENTITLED

AN ACT

relating to a designated essential caregiver for residents of certain long-term care facilities during public health emergencies.

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

SECTION 1.  Subtitle A, Title 4, Health and Safety Code, is amended by adding Chapter 226 to read as follows:

CHAPTER 226. LONG-TERM CARE FACILITY ESSENTIAL CAREGIVER DESIGNATIONS AND REQUIREMENTS

Sec. 226.001.  DEFINITIONS. In this chapter:

(1)  "Essential caregiver" means an individual designated as a resident's essential caregiver in accordance with Section 226.003.

(2)  "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(3)  "Long-term care facility" means:

(A)  a facility licensed or regulated under Chapter 242, 247, or 252; and

(B)  a state supported living center as defined by Section 531.002.

(4)  "Public health emergency" means an immediate threat from a communicable disease as defined by Section 81.003 that:

(A)  poses a high risk of death or serious long-term disability to a large number of people in the general population; and

(B)  creates a substantial risk of public exposure because of the disease's high level of contagion or the method by which the disease is transmitted.

(5)  "Resident" means an individual, including a patient or client, who resides in a long-term care facility.

Sec. 226.002.  PURPOSE. The purpose of this chapter is to require long-term care facilities to develop and implement policies and procedures for residents to designate an essential caregiver and to ensure that during a public health emergency the facility provides an essential caregiver with meaningful access to the resident to:

(1)  detect resident concerns and advocate on behalf of the resident;

(2)  observe and communicate to facility staff and health care providers important details and changes related to the resident's condition or behavior;

(3)  assist the resident in managing complex or critical information;

(4)  provide emotional support and ensure the resident's personal values and care preferences are considered by facility staff and health care providers;

(5)  alleviate caregiving tasks of facility staff and health care providers;

(6)  preserve and promote the resident's quality of life; and

(7)  promote and help maintain a sense of continuity, identity, and autonomy for the resident.

Sec. 226.003.  POLICIES AND PROCEDURES FOR DESIGNATION AND USE OF ESSENTIAL CAREGIVER. (a) The executive commissioner by rule shall require each long-term care facility to develop and implement policies and procedures allowing each resident to designate an essential caregiver to whom the facility will provide, in accordance with and in the manner described by this chapter, meaningful access to the resident during a public health emergency.

(b)  The policies and procedures must:

(1)  require long-term care facility staff and health care providers to consult each resident to determine the most appropriate individual to designate as the resident's essential caregiver;

(2)  establish criteria for individuals to be designated as a resident's essential caregiver, provided the criteria allow the resident to designate a family member, a friend, an outside caregiver, or a volunteer who has provided regular care and support to the resident;

(3)  if demonstrated by one or more individuals' past involvement with the resident or necessitated by the resident's particular needs, allow a resident to designate more than one essential caregiver;

(4)  authorize a resident's essential caregiver to regularly assist facility staff and health care providers in providing care and emotional support to the resident, including during a public health emergency;

(5)  except as otherwise provided by Section 226.004 due to the imposition of quarantine restrictions, require facility staff to work cooperatively with each resident and essential caregiver to develop a visitation schedule that ensures:

(A)  the caregiver has meaningful access to the resident during a public health emergency;

(B)  the caregiver is allowed access to the resident to provide caregiving services:

(i)  for the greater of three hours each day or the hours necessary for the caregiver to complete the services; and

(ii)  in a manner, including during evening and weekend visits, that accommodates the caregiver's work, child-care obligations, or other schedule; and

(C)  the number of caregivers admitted to the facility at any given time is appropriate for maintaining the health, safety, and security of each resident, staff member, and health care provider; and

(6)  ensure that each essential caregiver has access to information on the proper use of personal protective equipment during a public health emergency.

Sec. 226.004.  REQUIREMENTS AND RESTRICTIONS FOR ESSENTIAL CAREGIVER ACCESS DURING PUBLIC HEALTH EMERGENCY. (a) A long-term care facility must designate a central point of entry during a public health emergency where each essential caregiver must enter and register. Before entering the facility, facility staff or health care providers must properly screen each caregiver for symptoms of a disease or disorder related to a public health emergency in the same manner the facility staff and health care providers are screened.

(b)  An essential caregiver admitted to a long-term care facility during a public health emergency must wear all necessary personal protective equipment while inside the facility, including eye protection or a face mask as necessary, and must frequently sanitize the caregiver's hands. The facility shall provide an appropriate number of hand sanitizing or other stations located throughout the facility for caregivers to maintain proper hygiene while inside the facility.

(c)  A long-term care facility shall establish procedures allowing an essential caregiver to walk outside with the resident in the area surrounding the facility if the caregiver and resident wear appropriate personal protective equipment. A caregiver may not take a resident beyond that area other than to an essential medical appointment with the authorization of facility staff or health care providers.

(d)  An essential caregiver must:

(1)  visit or provide care to a resident inside the resident's room or another area designated by facility staff or health care providers;

(2)  while inside the facility maintain an appropriate social distance from each individual other than the caregiver's resident, including facility staff, health care providers, and other residents; and

(3)  immediately notify facility staff or health care providers if, within 14 days following the caregiver's most recent visit, the caregiver develops a fever or experiences symptoms of a disease or disorder related to a public health emergency.

(e)  Except for a compassionate care visit authorized by a long-term care facility, an essential caregiver may not visit a resident who is under quarantine restrictions imposed by the facility due to the resident testing positive for, being exposed to, or experiencing symptoms of a disease or disorder related to a public health emergency.

Sec. 226.005.  RESTRICTION OR REVOCATION OF ESSENTIAL CAREGIVER DESIGNATION. (a) A long-term care facility may restrict an essential caregiver's access to the facility or revoke a caregiver's designation for a violation of Section 226.004.

(b)  Before restricting an essential caregiver's access or revoking a caregiver's designation, a long-term care facility must provide the caregiver with an opportunity to discuss the restriction or revocation with facility staff, health care providers, and the resident in an attempt to correct the violation.

SECTION 2.  As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt rules as necessary to implement Chapter 226, Health and Safety Code, as added by this Act.

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