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By:  Bucy H.B. No. 3711

A BILL TO BE ENTITLED

AN ACT

relating to establishing a registry of medically fragile individuals for wellness checks during certain emergencies.

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

SECTION 1.  Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 174 to read as follows:

CHAPTER 174. WELLNESS CHECKS FOR MEDICALLY FRAGILE INDIVIDUALS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 174.001.  DEFINITIONS. In this chapter:

(1)  "Division" means the Texas Division of Emergency Management.

(2)  "First responder" means any federal, state, or local personnel who may respond to a disaster, including:

(A)  public health and public safety personnel;

(B)  commissioned law enforcement personnel;

(C)  fire protection personnel, including volunteer firefighters;

(D)  emergency medical services personnel, including hospital emergency facility staff;

(E)  a member of the National Guard; or

(F)  a member of the Texas State Guard.

(3)  "Individual's legally authorized representative" means:

(A)  a guardian of a medically fragile individual who has been adjudicated incompetent to manage the individual's personal affairs; or

(B)  an agent of a medically fragile individual authorized under a durable power of attorney for health care.

(4)  "Medically fragile individual" means any individual who, during a time of disaster or emergency, would be particularly vulnerable because of a medical condition, including individuals:

(A)  with Alzheimer's disease and other related disorders;

(B)  receiving dialysis services;

(C)  who are diagnosed with a debilitating chronic illness;

(D)  who are dependent on oxygen treatment; or

(E)  who have medical conditions that require 24-hour supervision from a skilled nurse.

(5)  "Registry" means the registry established under this chapter.

Sec. 174.002.  RULES. The executive commissioner shall adopt rules to implement this chapter.

SUBCHAPTER B. MEDICALLY FRAGILE INDIVIDUAL REGISTRY

Sec. 174.051.  MEDICALLY FRAGILE INDIVIDUAL REGISTRY. (a) The commission, in collaboration with the department and the division, shall establish and maintain a registry of medically fragile individuals for use as a single repository of accurate, complete, and current records to aid, coordinate, and promote an efficient response for supporting those individuals in an area:

(1)  subject to a state of disaster declaration under Chapter 418, Government Code;

(2)  experiencing an extended power, water, or gas outage; or

(3)  experiencing any other event requiring a wellness check under Section 174.102.

(b)  The executive commissioner by rule shall, in consultation with the division, develop guidelines to:

(1)  protect the confidentiality of medically fragile individuals in accordance with Section 159.002, Occupations Code;

(2)  ensure that the registry is developed in a manner consistent with the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191), regulations adopted under that Act, and other applicable laws and regulations governing disclosure of health information;

(3)  inform a medically fragile individual or the individual's legally authorized representative about the registry and that registry information may be released;

(4)  require the written or electronic consent of a medically fragile individual or the individual's legally authorized representative before any information relating to the individual is included in the registry; and

(5)  allow a medically fragile individual or the individual's legally authorized representative to withdraw consent for the individual to be included in the registry.

Sec. 174.052.  CONSENT FOR REGISTRY; REMOVAL FROM REGISTRY. (a) A medically fragile individual's or the individual's legally authorized representative may consent to the individual's inclusion on the registry. Consent to inclusion on the registry under this section:

(1)  must be written or electronic;

(2)  is required to be obtained only one time;

(3)  must be received from the individual before the individual is included in the registry; and

(4)  may be revoked at any time.

(b)  The consent of a medically fragile individual or the individual's legally authorized representative is valid until the individual or the individual's legally authorized representative withdraws consent in writing or electronically.

(c)  The commission shall remove from the registry information for any individual for whom consent has been withdrawn. The commission may not retain individually identifiable information about any individual for whom consent has been withdrawn.

Sec. 174.053.  INFORMATION REQUIRED ON REGISTRY. The registry must contain the following information regarding a medically fragile individual obtained by the commission:

(1)  the individual's full name;

(2)  the individual's address;

(3)  primary and secondary contact information for the individual;

(4)  the individual's emergency contact information;

(5)  the individual's medical condition and specific medical needs; and

(6)  any other information that the commission, in consultation with the department and division, considers necessary.

Sec. 174.054.  ACCESS TO REGISTRY. The executive commissioner shall adopt rules regarding the persons authorized to access the registry. Persons who must have access to the registry include:

(1)  the commission;

(2)  the department;

(3)  the division;

(4)  first responders;

(5)  local governments; and

(6)  local health departments.

SUBCHAPTER C. WELLNESS CHECKS

Sec. 174.101.  REQUIRED WELLNESS CHECK. The commission shall collaborate with the persons who have access to the registry under Section 174.054 and with applicable municipalities and counties to ensure that each medically fragile individual listed in the registry and located in an area that experiences an event requiring a wellness check as described by Section 174.102 has a wellness check conducted on the individual in accordance with this subchapter to ensure the individual has:

(1)  continuity of care; and

(2)  the ability to continue using electrically powered medical equipment, if applicable.

Sec. 174.102.  EVENTS REQUIRING WELLNESS CHECKS. (a) The executive commissioner, in collaboration with the commission, department, and division, shall adopt rules regarding the events requiring a wellness check, including:

(1)  an extended power, water, or gas outage;

(2)  a state of disaster declared under Chapter 418, Government Code; or

(3)  any other event considered necessary by the commission, the department, or the division.

(b)  If more than one disaster is declared for the same event, only one wellness check is required under this subchapter.

Sec. 174.103.  REQUIREMENTS FOR WELLNESS CHECK. (a) The executive commissioner by rule shall develop minimum standards for wellness checks. Each county and municipality shall adopt procedures for conducting wellness checks in compliance with the minimum standards.

(b)  A wellness check on a medically fragile individual conducted under this subchapter must be conducted:

(1)  through:

(A)  an automated telephone call and text to the individual;

(B)  a personalized telephone call to the individual; and

(C)  if the individual is unresponsive to a telephone call under Paragraph (B), an in-person wellness check; and

(2)  in accordance with the minimum standards prescribed by commission rule and the procedures of the applicable county or municipality.

(c)  A wellness check shall be conducted as soon as practicable but not later than 24 hours after the event requiring a wellness check occurs.

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 any rules necessary to implement Chapter 174, Health and Safety Code, as added by this Act.

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