

By: Sanford

H.B. No. 2324

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to a designated essential caregiver for residents of  
3 certain long-term care facilities during public health  
4 emergencies.

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

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

8 CHAPTER 226. LONG-TERM CARE FACILITY ESSENTIAL CAREGIVER

9 DESIGNATIONS AND REQUIREMENTS

10 Sec. 226.001. DEFINITIONS. In this chapter:

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

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

16 (3) "Long-term care facility" means:

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

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

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

24 (A) poses a high risk of death or serious

1 long-term disability to a large number of people in the general  
2 population; and

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

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

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

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

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

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

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

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

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

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

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

10           (b) The policies and procedures must:

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

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

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

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

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

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

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

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

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

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

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

22           Sec. 226.004. REQUIREMENTS AND RESTRICTIONS FOR ESSENTIAL  
23 CAREGIVER ACCESS DURING PUBLIC HEALTH EMERGENCY. (a) A long-term  
24 care facility must designate a central point of entry during a  
25 public health emergency where each essential caregiver must enter  
26 and register. Before entering the facility, facility staff or  
27 health care providers must properly screen each caregiver for

1 symptoms of a disease or disorder related to a public health  
2 emergency in the same manner the facility staff and health care  
3 providers are screened.

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

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

19 (d) An essential caregiver must:

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

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

27 (3) immediately notify facility staff or health care

1 providers if, within 14 days following the caregiver's most recent  
2 visit, the caregiver develops a fever or experiences symptoms of a  
3 disease or disorder related to a public health emergency.

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

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

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

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

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