By: Miles, Huffman S.B. No. 1876

(In the Senate - Filed March 12, 2021; March 26, 2021, read first time and referred to Committee on Health & Human Services; May 3, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; May 3, 2021, sent to printer.)

COMMITTEE VOTE

	Yea	Nay	Absent	PNV
Kolkhorst	X			
Perry	X			
Blanco	X			
Buckingham	X			
Campbell	X			
Hall	X			
Miles	X			
Powell	X			
Seliger	X			

COMMITTEE SUBSTITUTE FOR S.B. No. 1876 By: Perry

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 transfer agreement;

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

(D) each applicable local emergency management agency;

(3) except as provided by Subsection (d), require the facility to execute a contract with another end stage renal disease facility located within a 100-mile radius of the facility stipulating that the other end stage renal disease 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; and

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

(c) As part of the emergency preparedness and contingency

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

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

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

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

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

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

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

(1) the department;

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

(3) the trauma service area regional advisory council that serves the geographic area in which the facility is located.

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

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

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

(2) 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 the anticipated number of patients affected.

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

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

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

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

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

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

(2) except as provided by Subsection (c), to maintain an on-site fuel source that contains enough fuel capacity to power

the on-site generator for not less than 24 hours, as determined by the electrical load demand on the emergency generator for that period;

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

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

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

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

(1) to maintain sufficient resources to provide on demand or to execute a contract with an outside supplier or vendor to provide on demand:

(A) a portable emergency generator that:

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

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

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

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

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

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

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

(C) potable water;

(2) to 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

(3) to contact the outside supplier or vendor with which the facility contracts under Subdivision (1), if applicable, not later than 36 hours after the facility loses electrical power.

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

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

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

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

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

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

(d) Consistent with rules adopted under this section, the executive commissioner by rule shall authorize, during a declared

disaster, the emergency transfer of a dialysis patient from the patient's location directly to an outpatient end stage renal disease facility. For purposes of this subsection:

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

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

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

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

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

(a) In this section:

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

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

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

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

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

(b) The commission by rule shall require an electric utility to give to the following the same priority that it gives to a hospital in the utility's emergency operations plan for restoring power after an extended power outage:

(1) a nursing facility;

(2) an assisted living facility; [~~and~~]

(3) an end stage renal disease facility; and

(4) a facility that provides hospice services.

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

(c-1) An emergency preparedness plan submitted under Subsection (b) may provide for the prioritization of water restoration to an end stage renal disease facility, as that term is defined by Section 251.001, Health and Safety Code, 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:

(1) the facility's needs;

(2) the affected community's needs; and

(3) the characteristics of the geographic area in which water is to be restored.

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

(1) each end stage renal disease facility shall develop and implement the plans required under Sections 251.016 and 251.017, Health and Safety Code, as added by this Act;

(2) the executive commissioner of the Health and Human Services Commission shall adopt the rules required by Section 773.112(d), Health and Safety Code, as added by this Act; and

(3) the Public Utility Commission of Texas shall adopt the rules required by Section 38.072, Utilities Code, as amended by this Act.

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

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