88R1396 SCL-F

By:  Campos H.B. No. 1873

A BILL TO BE ENTITLED

AN ACT

relating to patients' rights, consumer protection, and directives for the provision of health care services; providing an administrative penalty.

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

SECTION 1.  Subchapter A, Chapter 166, Health and Safety Code, is amended by adding Section 166.012 to read as follows:

Sec. 166.012.  DIRECTIVE FOR PHYSICIAN DIAGNOSIS AND TREATMENT. (a) A competent adult may execute a written directive that:

(1)  requires any diagnosis or treatment provided to the adult to be provided only by a physician; and

(2)  provides that if the adult is incompetent or otherwise mentally or physically incapable of communication, only a physician may diagnose and treat the adult.

(b)  Except as provided by Subsection (c), the declarant must sign the directive in the presence of two witnesses who qualify under Section 166.003, at least one of whom must be a witness who qualifies under Section 166.003(2). The witnesses must sign the directive.

(c)  The declarant, in lieu of signing in the presence of witnesses, may sign the directive and have the signature acknowledged before a notary public.

(d)  A declarant shall notify the declarant's attending physician of the existence of the written directive. If the declarant is incompetent or otherwise mentally or physically incapable of communication, another person may notify the attending physician of the existence of the directive. The attending physician shall make the directive a part of the declarant's medical record.

(e)  A directive described by Subsection (a) prevails over a conflicting directive unless the conflicting directive is later executed and states that the directive executed under this section is revoked.

SECTION 2.  Title 2, Health and Safety Code, is amended by adding Subtitle J to read as follows:

SUBTITLE J. PROVISION OF HEALTH CARE SERVICES

CHAPTER 185. TEXAS PATIENTS' BILL OF RIGHTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 185.001.  DEFINITIONS. In this chapter:

(1)  "Health care facility" means a facility licensed, certified, registered, or otherwise authorized to administer health care services, for profit or otherwise, to individuals in this state in the ordinary course of business or professional practice.

(2)  "Health care practitioner" means an individual licensed, certified, registered, or otherwise authorized to administer health care services, for profit or otherwise, to individuals in this state in the ordinary course of business or practice.

(3)  "Health care services" means services provided by a health care practitioner to prevent, alleviate, cure, or heal human illness or injury.

Sec. 185.002.  PURPOSE. The purpose of this chapter is to provide the necessary information for patients to make informed decisions on health care services.

Sec. 185.003.  APPLICABILITY. (a) Except as provided by Subsection (b), this chapter applies to each health care facility in this state, including hospitals, freestanding emergency medical care facilities, hospital-owned outpatient clinics, urgent care centers, and ambulatory surgical centers, and each health care practitioner in this state.

(b)  This chapter does not apply to a dentist, physical therapist, or chiropractor.

Sec. 185.004.  RULES. A state regulatory agency that issues a license, certification, registration, or other authorization to a health care facility or health care practitioner, including The Texas Medical Board, Texas Physician Assistant Board, Texas Board of Nursing, and executive commissioner, may adopt rules necessary to implement this chapter.

SUBCHAPTER B. PATIENT RIGHTS

Sec. 185.051.  RIGHTS RELATED TO HEALTH CARE PRACTITIONERS. A patient in this state has the right to:

(1)  be informed of the type of license a health care practitioner holds by viewing a photo identification worn by the practitioner in accordance with Section 185.102;

(2)  be informed about whether a supervising physician is present at the health care facility at the time the patient receives health care services at the facility;

(3)  decline health care services provided by a nonphysician health care practitioner and instead request that a physician provide the health care services within a reasonable time;

(4)  be informed in advance of the patient's health care appointment of the health care practitioner scheduled to provide health care services to the patient;

(5)  avoid any penalty for the patient's refusal to accept provision of health care services by a nonphysician health care practitioner;

(6)  be provided an initial consultation only with a specialist who is a physician;

(7)  be informed of the identity of the physician supervising each nonphysician health care practitioner involved in providing health care services to the patient; and

(8)  be provided accurate health care information that is not misleading or deceptive in a manner prohibited under Section 102.0015, Occupations Code.

Sec. 185.052.  RIGHTS RELATED TO INFORMED CONSENT. (a) A patient in this state has the right to:

(1)  receive a clearly readable and intelligible copy of all consent to treat forms before the patient is asked to sign those forms;

(2)  receive and execute a one-page document authorizing only a physician to diagnose and treat the patient;

(3)  receive simplified paperwork that does not require the patient to enter duplicate information on multiple forms;

(4)  execute an advance directive under Section 166.012 requiring that only a physician diagnose and treat the patient, including when the patient is unable to communicate; and

(5)  receive documentation with a clear explanation of each proposed health care service, including medications, and any practicable alternatives to each service.

(b)  A reference on an electronic device to a consent to treat form or another document that the patient has not received does not satisfy the requirements of Subsection (a)(1).

Sec. 185.053.  RIGHTS RELATED TO TREATMENT. A patient in this state has the right to:

(1)  if practicable, have an advocate, including a family member or other individual, present with the patient during the provision of health care services;

(2)  receive an easily understandable summary of the health care services provided to the patient;

(3)  for hospitalized patients, have an accurate active medication list maintained at all times while the patient remains hospitalized; and

(4)  as applicable, receive documentation stating that the patient's treatment is deviating from the standard of care because of cost, health benefit plan coverage, or hospital supply shortage.

Sec. 185.054.  RIGHTS RELATED TO BILLING. A patient in this state has the right to receive:

(1)  if practicable, a written estimate of the cost of health care services, including the cost of directly paying the health care practitioner or health care facility that provides the services rather than paying through a health benefit plan;

(2)  written notice on whether the patient's health benefit plan covers a health care service;

(3)  a written disclosure on whether any health care practitioner who may provide health care services to the patient is an independent contractor who bills separately; and

(4)  a reduced price for health care services provided by a nonphysician health care practitioner.

SUBCHAPTER C. REQUIREMENTS FOR HEALTH CARE FACILITIES AND PRACTITIONERS

Sec. 185.101.  PROHIBITED ABRIDGEMENT OF RIGHTS OR VIOLATION OF RULES. A health care facility or health care practitioner may not abridge a right described by Subchapter B or violate a rule adopted under this chapter.

Sec. 185.102.  PHOTO IDENTIFICATION REQUIREMENTS FOR HEALTH CARE PRACTITIONERS. (a) While providing health care services to a patient, a health care practitioner shall wear a clearly visible photo identification that identifies the practitioner's occupational license, certification, registration, or other authorization issued under Title 3, Occupations Code, or the occupational license, certification, registration, or other authorization for which the practitioner is training under that title.

(b)  The photo identification must clearly state the health care practitioner's occupation and may not abbreviate the occupation.

(c)  The photo identification for a health care practitioner who is training to hold a license, certification, registration, or other authorization under Title 3, Occupations Code, must identify the practitioner as a student, resident, or fellow.

Sec. 185.103.  INFORMATION REGARDING NONPHYSICIAN HEALTH CARE PRACTITIONERS. A health care facility employing nonphysician health care practitioners at a facility location shall clearly post in each patient waiting area at the location and on all advertisements for health care services provided at the location that:

(1)  health care services are provided by nonphysician health care practitioners; and

(2)  the patient has the right to be informed of the identity of the supervising physician of any nonphysician health care provider who provides health care services to the patient.

Sec. 185.104.  PROVISION OF TRAINING INFORMATION. A health care facility in this state shall post the differences in training requirements for the health care practitioners employed by the facility on the facility's Internet website and in each of the facility's patient waiting areas.

SUBCHAPTER D. ENFORCEMENT

Sec. 185.151.  REPORT. A patient may report a violation of a right described by Subchapter B to:

(1)  the state regulatory agency that issues a license, certification, registration, or other authorization to a health care practitioner, including:

(A)  the Texas Medical Board for physicians;

(B)  the Texas Physician Assistant Board for physician assistants; and

(C)  the Texas Board of Nursing for nurses; and

(2)  the state regulatory agency that issues a license, certification, registration, or other authorization to a health care facility, including the commission.

Sec. 185.152.  ADMINISTRATIVE PENALTY. (a) A state regulatory agency for a health care facility or health care practitioner, including the Texas Medical Board, the Texas Physician Assistant Board, the Texas Board of Nursing, and the commission, may impose an administrative penalty against a person regulated by the agency who violates this chapter or a rule adopted under this chapter.

(b)  The assessed penalty may not be less than $100 or more than $10,000 for each violation. Each day of a violation that occurs before the day on which the person receives written notice of the violation does not constitute a separate violation and shall be considered one violation. Each day of a continuing violation that occurs after the day on which the person receives written notice of the violation constitutes a separate violation.

SECTION 3.  Subchapter A, Chapter 102, Occupations Code, is amended by adding Section 102.0015 to read as follows:

Sec. 102.0015.  REQUIREMENTS AND PROHIBITED PRACTICES RELATED TO QUALIFICATIONS IN ADVERTISEMENTS. (a) A person may not make a deceptive or misleading statement or engage in a deceptive or misleading act in advertising health care services that misrepresents:

(1)  whether the person holds a license, certification, registration, or other authorization issued by this state to provide the services; or

(2)  the person's education, training, or clinical expertise.

(b)  A person who is advertising health care services provided by the person shall disclose in the advertisement the applicable license, certification, registration, or other authorization under which the person is authorized to provide the services.

SECTION 4.  Section 102.008, Occupations Code, is amended to read as follows:

Sec. 102.008.  DISCIPLINARY ACTION. A violation of Section 102.001, 102.0015, or 102.006 is grounds for disciplinary action by the regulatory agency that issued a license, certification, or registration to the person who committed the violation.

SECTION 5.  Each state regulatory agency that issues a license, certification, registration, or other authorization to a health care practitioner or health care facility, including the Texas Medical Board, Texas Physician Assistant Board, Texas Board of Nursing, and executive commissioner of the Health and Human Services Commission, shall adopt rules necessary to implement Chapter 185, Health and Safety Code, as added by this Act, not later than January 1, 2024.

SECTION 6.  Chapter 185, Health and Safety Code, as added by this Act, applies to the provision of health care services on or after January 1, 2024.

SECTION 7.  This Act takes effect September 1, 2023.