

By: Zaffirini, et al.
(Smith)

S.B. No. 52

A BILL TO BE ENTITLED

AN ACT

relating to the right of state hospital patients to designate an essential caregiver for in-person visitation.

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

SECTION 1. Chapter 552, Health and Safety Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. RIGHT TO ESSENTIAL CAREGIVER VISITS

Sec. 552.201. DEFINITION. In this chapter, "essential caregiver" means a family member, friend, guardian, or other individual a patient, patient's guardian, or patient's legally authorized representative selects for in-person visits.

Sec. 552.202. PATIENT'S RIGHT TO ESSENTIAL CAREGIVER VISITS. (a) A patient, the patient's guardian, or the patient's legally authorized representative has the right to designate an essential caregiver with whom a state hospital may not prohibit in-person visitation.

(b) If a patient is a minor, the patient's parent, guardian, or managing conservator may designate both of the minor patient's parents as essential caregivers under Subsection (a).

Sec. 552.203. ESSENTIAL CAREGIVER POLICIES, PROCEDURES, AND SAFETY PROTOCOLS. (a) Notwithstanding Section 552.202, the executive commissioner by rule shall develop guidelines to assist state hospitals in establishing essential caregiver visitation policies and procedures. The guidelines must require the hospitals

1 to:

2 (1) allow a patient, patient's guardian, or patient's
3 legally authorized representative or, for a minor patient, the
4 patient's parent, guardian, or managing conservator, to designate
5 for in-person visitation an essential caregiver;

6 (2) establish a visitation schedule allowing the
7 essential caregiver to visit the patient for at least two hours each
8 day;

9 (3) establish procedures to enable physical contact
10 between the patient and essential caregiver; and

11 (4) obtain the signature of the essential caregiver
12 certifying the caregiver will follow the hospital's safety
13 protocols and any other policies, procedures, or rules established
14 under this section.

15 (b) A state hospital may not establish safety protocols
16 under this section that are more stringent than the safety
17 protocols the hospital establishes for hospital staff.

18 Sec. 552.204. REVOCATION OF ESSENTIAL CAREGIVER
19 DESIGNATION. (a) A state hospital may revoke an individual's
20 designation as an essential caregiver if the individual violates
21 the hospital's policies, procedures, or safety protocols
22 established under Section 552.203.

23 (b) If a state hospital revokes an individual's designation
24 as an essential caregiver under this section, the patient,
25 patient's guardian, or patient's legally authorized representative
26 or, for a minor patient, the patient's parent, guardian, or
27 managing conservator, has the right to immediately designate

1 another individual as the patient's essential caregiver.

2 (c) The commission by rule shall establish an appeals
3 process to evaluate the revocation of an individual's designation
4 as an essential caregiver under this section.

5 Sec. 552.205. TEMPORARY SUSPENSION OF ESSENTIAL CAREGIVER
6 VISITS. (a) A state hospital may petition the commission to
7 suspend in-person essential caregiver visits for not more than
8 seven days if in-person visitation poses a serious community health
9 risk. The commission may deny the hospital's request to suspend
10 in-person essential caregiver visitation if the commission
11 determines that in-person visitation does not pose a serious
12 community health risk.

13 (b) A state hospital may request an extension from the
14 commission to suspend in-person essential caregiver visitation for
15 more than seven days. The commission may not approve an extension
16 for a period that exceeds seven days, and the hospital must
17 separately request each extension.

18 (c) A state hospital may not suspend in-person essential
19 caregiver visitation in any year for more than 14 consecutive days
20 or 45 days total.

21 Sec. 552.206. PROVISION OF NECESSARY PATIENT CARE BY
22 ESSENTIAL CAREGIVER. This subchapter may not be construed as
23 requiring an essential caregiver to provide necessary care to a
24 patient, and a state hospital may not require an essential
25 caregiver to provide the necessary care.

26 SECTION 2. As soon as practicable after the effective date
27 of this Act, the executive commissioner of the Health and Human

1 Services Commission shall prescribe the guidelines and adopt the
2 rules required by Subchapter F, Chapter 552, Health and Safety
3 Code, as added by this Act.

4 SECTION 3. This Act takes effect September 1, 2023.