

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2211
By: Metcalf et al. (Perry)
Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Hospitals have restricted visitation to patients during the COVID-19 pandemic regardless of whether the patients have COVID-19. There have been calls to provide hospitals the flexibility to protect their employees and patients from infectious disease while also ensuring that patients receiving care in the hospital may receive a visitor who can advocate for them and help them better communicate their wishes to health care professionals.

H.B. 2211 prohibits a hospital from denying in-person visitation unless federal law or a federal agency requires the hospital to do so or an attending physician determines visitation should be denied in a specific case. The bill gives hospitals the authority to deny entry to or remove a visitor who refuses to meet health screening and PPE requirements, provides for updates to an appropriate person regarding a patient who cannot receive visitors, and provides related liability protections for hospitals and attending physicians.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 2211 amends current law relating to in-person visitation with hospital patients during certain periods of disaster.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 241, Health and Safety Code, by adding Section 241.012, as follows:

Sec. 241.012. IN-PERSON HOSPITAL VISITATION DURING PERIOD OF DISASTER. (a) Defines "hospital," "qualifying official disaster order," "qualifying period of disaster," and "religious counselor."

(b) Prohibits a hospital from, during a qualifying period of disaster, prohibiting in-person visitation with a patient receiving care or treatment at the hospital unless federal law or a federal agency requires the hospital to prohibit in-person visitation during that period.

(c) Authorizes a hospital, notwithstanding Subsection (b), during a qualifying period of disaster to:

(1) restrict the number of visitors a patient receiving care or treatment at the hospital is authorized to receive to not fewer than one;

(2) require a visitor to the hospital to:

(A) complete a health screening before entering the hospital; and

(B) wear personal protective equipment at all times while visiting a patient at the hospital; and

(3) deny entry to or remove from the hospital's premises a visitor who fails or refuses to:

(A) submit to or meet the requirements of a health screening administered by the hospital; or

(B) wear personal protective equipment that meets the hospital's infection control and safety requirements in the manner prescribed by the hospital.

(d) Requires that a health screening administered by a hospital under this section be conducted in a manner that, at a minimum, complies with:

(1) hospital policy; and

(2) if applicable, guidance or directives issued by the Health and Human Services Commission, the Centers for Medicare and Medicaid Services, or another agency with regulatory authority over the hospital.

(e) Provides that, notwithstanding any other law, neither a hospital nor a physician providing health care services on the hospital's premises is subject to civil or criminal liability or an administrative penalty if a visitor contracts an infectious disease while on the hospital's premises during a qualifying period of disaster or, in connection with a visit to the hospital, spreads an infectious disease to any other individual, except where intentional misconduct or gross negligence by the hospital or the physician is shown. Provides that a physician who in good faith takes, or fails to take, an action under Section 241.012 is not subject to civil or criminal liability or disciplinary action for the physician's action or failure to act under Section 241.012.

(f) Prohibits this section from being construed as requiring a hospital to:

(1) provide a specific type of personal protective equipment to a visitor to the hospital; or

(2) allow in-person visitation with a patient receiving care or treatment at the hospital if an attending physician determines that in-person visitation with that patient may lead to the transmission of an infectious agent that poses a serious community health risk.

(g) Provides that a determination made by an attending physician under Subsection (f)(2) is valid for not more than five days after the date the determination is made unless renewed by an attending physician.

(h) Requires the hospital, if a visitor to a hospital is denied in-person visitation with a patient receiving care or treatment at a hospital because of a determination made by an attending physician under Subsection (f)(2), to:

(1) provide each day a written or oral update of the patient's condition to the visitor if the visitor:

(A) is authorized by the patient to receive relevant health information regarding the patient;

(B) has authority to receive the patient's health information under an advance directive or medical power of attorney; or

(C) is otherwise the patient's surrogate decision-maker regarding the patient's health care needs under hospital policy and other applicable law; and

(2) notify the person who receives the daily update required under Subdivision (1) of the estimated date and time at which the patient will be discharged from the hospital.

(i) Prohibits a hospital, notwithstanding any other provision of this section, from prohibiting in-person visitation by a religious counselor with a patient who is receiving care or treatment at the hospital and who is seriously ill or dying for a reason other than the religious counselor's failure to comply with a requirement described by Subsection (c)(2).

(j) Provides that Section 241.012 prevails in the event of a conflict between Section 241.012 and any provision of a qualifying official disaster order.

(k) Provides that this section does not create a cause of action against a hospital or physician.

SECTION 2. Effective date: September 1, 2021.