

BILL ANALYSIS

Senate Research Center
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S.B. 25
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many nursing homes and assisted living residents rely on family members, friends, or other caregivers to provide hands-on care and social and emotional support to supplement the care provided by staff. State policies enacted at the beginning of the COVID-19 public health emergency restricted long-term care residents' access to such essential caregivers. These restrictions had a significant impact on the physical and mental well-being of many residents, especially those with memory or cognitive challenges.

In September 2020, the Health and Human Services Commission updated the emergency rules to allow residents to designate up to two essential caregivers. These caregivers are provided with training to allow them to safely go inside a facility for scheduled visits to help ensure their loved one's physical, social, and emotional needs are being met. This bill and accompanying resolution codify a nursing home or assisted living resident's right to designate an essential caregiver. The bill also directs the establishment of infection control measures to ensure resident and staff safety during caregiving visits. The guidelines developed by the executive commissioner will provide certainty and consistency for caregivers, residents, and long-term care providers.

As proposed, S.B. 25 amends current law relating to the right of certain facility residents to designate an essential caregiver for in-person visitation.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 260B.0002, Health and Safety Code) and SECTION 2 (Section 555.202, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 4, Health and Safety Code, by adding Chapter 260B, as follows:

CHAPTER 260B. RIGHT TO ESSENTIAL CAREGIVER VISITS FOR CERTAIN FACILITY RESIDENTS

Sec. 260B.0001. DEFINITIONS. Defines "essential caregiver," "executive commissioner," "facility," and "resident."

Sec. 260B.0002. RESIDENT'S RIGHT TO ESSENTIAL CAREGIVER VISITS. (a) Provides that a facility resident has the right to designate at least one essential caregiver whose in-person visitation the facility may not prohibit.

(b) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) by rule, notwithstanding Subsection (a), to develop guidelines to assist facilities in establishing essential caregiver visitation policies and procedures. Requires that the guidelines require the facilities to:

(1) allow residents to designate for in-person visitation at least one essential caregiver, and more than one if needed;

(2) establish a visitation schedule allowing the essential caregiver to visit the resident for the greater of two hours each day or the hours necessary for the caregiver to complete all caregiving tasks;

(3) establish procedures to enable personal contact between the resident and essential caregiver while requiring social distancing between the caregiver and facility staff;

(4) obtain a signed acknowledgment from the essential caregiver in which the caregiver agrees to follow the facility's safety protocols, including:

(A) wearing personal protective equipment while visiting the resident;

(B) completing a health screening before entering the facility;

(C) submitting to regular viral testing; and

(D) monitoring symptoms, practicing social distancing, and limiting contact with individuals outside of the facility; and

(5) establish a visitor's log for contact tracing.

(c) Provides that, in the event of a conflict between this section and any other law, this section prevails.

SECTION 2. Amends Chapter 555, Health and Safety Code, by adding Subchapter F, as follows:

SUBCHAPTER F. RIGHT TO ESSENTIAL CAREGIVER VISITS

Sec. 555.201. DEFINITION. Defines in Chapter 555 (State Supported Living Center) "essential caregiver."

Sec. 555.202. RESIDENT'S RIGHT TO ESSENTIAL CAREGIVER VISITS. (a) Provides that a resident of a state supported living center (center) has the right to designate at least one essential caregiver whose in-person visitation the center may not prohibit.

(b) Requires the executive commissioner by rule, notwithstanding Subsection (a), to develop guidelines to assist centers in establishing essential caregiver visitation policies and procedures. Requires that the guidelines require the centers to:

(1) allow residents to designate for in-person visitation at least one essential caregiver, and more than one if needed;

(2) establish a visitation schedule allowing the essential caregiver to visit the resident for the greater of two hours each day or the hours necessary for the caregiver to complete all caregiving tasks;

(3) establish procedures to enable personal contact between the resident and essential caregiver while requiring social distancing between the caregiver and center staff;

(4) obtain a signed acknowledgment from the essential caregiver in which the caregiver agrees to follow the center's safety protocols, including:

(A) wearing personal protective equipment while visiting the resident;

(B) completing a health screening before entering the center;

(C) submitting to regular viral testing; and

(D) monitoring symptoms, practicing social distancing, and limiting contact with individuals outside of the center; and

(5) establish a visitor's log for contact tracing.

(c) Provides that, in the event of a conflict between this section and any other law, this section prevails.

SECTION 3. Requires the executive commissioner, as soon as practicable after the effective date of this Act, to establish the guidelines required by Sections 260B.0002 and 555.202, Health and Safety Code, as added by this Act.

SECTION 4. Effective date: September 1, 2021.