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H.B. No. 3121

A BILL TO BE ENTITLED

AN ACT

relating to a voluntary quality standards certification process for certain private residential psychiatric treatment facilities that provide treatments and services to youth; imposing fees; authorizing civil and administrative penalties.

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

SECTION 1. This Act shall be known as Alec's Law.

SECTION 2. Subtitle C, Title 7, Health and Safety Code, is amended by adding Chapter 577A to read as follows:

CHAPTER 577A. PSYCHIATRIC RESIDENTIAL YOUTH TREATMENT FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 577A.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Health and Human Services Commission.

(2) "Executive commissioner" means the executive commissioner of the commission.

(3) "Psychiatric residential youth treatment facility" means a private facility that provides psychiatric health treatments and services in a residential, nonhospital setting exclusively to individuals who are 21 years of age or younger and that meets criteria to be licensed as a general residential operation under Chapter 42, Human Resources Code. The term includes a facility that provides room and board.

(4) "Severe emotional disturbance" means a mental,

1 behavioral, or emotional disorder of sufficient duration to result  
2 in functional impairment that substantially interferes with or  
3 limits an individual's role or ability to function in family,  
4 school, or community activities.

5 Sec. 577A.002. EXEMPTIONS. This chapter does not apply to:

6 (1) a mental hospital; or

7 (2) a private mental hospital or other mental health  
8 facility licensed under Chapter 577.

9 Sec. 577A.003. LICENSING AND OTHER REQUIREMENTS NOT  
10 AFFECTED. This chapter does not affect any licensing or other  
11 requirements of a psychiatric residential youth treatment facility  
12 under Chapter 42, Human Resources Code.

13 Sec. 577A.004. RULES. The executive commissioner shall  
14 adopt rules necessary to implement this chapter.

15 SUBCHAPTER B. CERTIFICATION, FEES, AND INSPECTIONS

16 Sec. 577A.051. VOLUNTARY QUALITY STANDARDS CERTIFICATION.  
17 The commission shall develop and implement a voluntary quality  
18 standards certification process to certify a psychiatric  
19 residential youth treatment facility that meets standards for  
20 certification under this chapter.

21 Sec. 577A.052. CERTIFICATE APPLICATION. (a) To obtain a  
22 certificate under this chapter, an applicant must submit to the  
23 commission an application in the form and manner prescribed by the  
24 commission.

25 (b) Each application must be accompanied by a fee  
26 established by the executive commissioner under Section 577A.053.

27 Sec. 577A.053. FEES. The executive commissioner by rule

1 shall establish a nonrefundable certificate application fee and a  
2 nonrefundable certificate renewal fee in amounts necessary to cover  
3 the costs of administering this chapter.

4 Sec. 577A.054. ISSUANCE AND RENEWAL OF CERTIFICATE. (a)  
5 The commission shall issue a certificate to an applicant if on  
6 inspection and investigation the commission determines the  
7 applicant meets the requirements of this chapter and commission  
8 rules.

9 (b) A certificate issued under this chapter expires on the  
10 second anniversary of the date the certificate is issued or  
11 renewed.

12 (c) The commission shall renew a certificate if:

13 (1) the certificate holder submits to the commission a  
14 fee established by the executive commissioner under Section  
15 577A.053; and

16 (2) on inspection and investigation the commission  
17 determines the certificate holder meets the requirements of this  
18 chapter and commission rules.

19 Sec. 577A.055. INSPECTIONS. In addition to the inspections  
20 required under Section 577A.054, the commission shall conduct an  
21 inspection not later than the first anniversary of the date a  
22 certificate is issued or renewed to ensure the certificate holder  
23 remains in compliance with the requirements of this chapter and  
24 commission rules.

25 SUBCHAPTER C. REGULATION OF CERTIFIED PSYCHIATRIC RESIDENTIAL  
26 YOUTH TREATMENT FACILITIES

27 Sec. 577A.101. MINIMUM STANDARDS. The executive

1 commissioner by rule shall establish minimum standards for the  
2 certification of psychiatric residential youth treatment  
3 facilities under this chapter. The minimum standards must require  
4 a facility to:

5 (1) obtain accreditation by The Joint Commission, the  
6 Commission on Accreditation of Rehabilitation Facilities, the  
7 Council on Accreditation, or another accrediting organization  
8 approved by the commission; and

9 (2) provide and prescribe guidelines for the provision  
10 of the following activities, treatments, and services:

11 (A) development and implementation of individual  
12 plans of care, including the provision of services provided by a  
13 licensed psychiatrist or physician to develop individual plans of  
14 care;

15 (B) individual therapy;

16 (C) family engagement activities;

17 (D) consultation services with qualified  
18 professionals, including case managers, primary care  
19 professionals, community-based mental health providers, school  
20 staff, and other support planners;

21 (E) 24-hour nursing services; and

22 (F) direct care and supervision services,  
23 supportive services for daily living and safety, and positive  
24 behavior management services.

25 Sec. 577A.102. ADMISSION CRITERIA. A facility certified  
26 under this chapter may not admit or provide treatments or services  
27 to an individual unless the individual:

1           (1) is 21 years of age or younger;

2           (2) has been diagnosed with a severe emotional  
3 disturbance by a licensed mental health professional;

4           (3) requires residential psychiatric treatment under  
5 the direction of a licensed physician to improve the individual's  
6 condition; and

7           (4) was referred for treatments or services in a  
8 psychiatric residential youth treatment facility by a licensed  
9 mental health professional.

10                           SUBCHAPTER D. ENFORCEMENT

11           Sec. 577A.151. PENALTIES. A facility certified under this  
12 chapter is subject to a civil penalty under Section 571.023 or an  
13 administrative penalty under Section 571.025, as applicable, for a  
14 violation of this chapter or a rule adopted under this chapter.

15           SECTION 3. Section 577.002, Health and Safety Code, is  
16 amended to read as follows:

17           Sec. 577.002. EXEMPTIONS [~~FROM LICENSING REQUIREMENT~~]. (a)  
18 A mental health facility operated by the department or a federal  
19 agency need not be licensed under this chapter.

20           (b) This chapter does not apply to a psychiatric residential  
21 youth treatment facility certified under Chapter 577A.

22           SECTION 4. As soon as practicable after the effective date  
23 of this Act, the executive commissioner of the Health and Human  
24 Services Commission shall adopt rules necessary to implement  
25 Chapter 577A, Health and Safety Code, as added by this Act.

26           SECTION 5. This Act takes effect September 1, 2021.