

By: Klick

H.B. No. 3820

A BILL TO BE ENTITLED

AN ACT

relating to health care specialty consultations in certain child abuse or neglect investigations and assessments.

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

SECTION 1. Section 261.3017, Family Code, is amended by amending Subsections (b) and (c) and adding Subsections (b-1), (c-1), (c-2), and (e) to read as follows:

(b) Any agreement between the department and the network or between the Department of State Health Services and the system to provide assistance in connection with abuse and neglect investigations conducted by the department must require the network and the system to have the ability to obtain consultations with physicians licensed to practice medicine in this state and board certified in the relevant field or specialty, including radiologists, geneticists, orthopedists, and endocrinologists, to diagnose and treat certain [~~who specialize in identifying~~] unique health conditions, including:

(1) rickets;

(2) Ehlers-Danlos Syndrome;

(3) osteogenesis imperfecta;

(4) vitamin D deficiency; and

(5) other medical conditions that mimic child maltreatment or increase the risk of misdiagnosis of child maltreatment [~~similar metabolic bone diseases or connective tissue~~

1 disorders].

2 (b-1) The department shall refer all cases for a specialty
3 consultation to a physician who:

4 (1) is licensed to practice medicine in this state
5 under Subtitle B, Title 3, Occupations Code;

6 (2) is board certified in a field or specialty
7 relevant to diagnosing and treating the conditions described by
8 Subsection (b); and

9 (3) was not involved with the report of suspected
10 abuse or neglect.

11 (c) During [~~If, during~~] an abuse or neglect investigation
12 authorized by this subchapter or an assessment provided under
13 Subsection (b), the department [~~or a physician in the network~~
14 ~~determines that a child requires a specialty consultation with a~~
15 ~~physician, the department or the physician] shall refer the child's
16 case [~~to the system~~] for a specialty [~~the~~] consultation[~~7~~] if:~~

17 (1) the department determines the child requires a
18 specialty consultation with a physician;

19 (2) the child's primary care physician or other
20 primary health care provider who provided health care or treatment
21 or otherwise evaluated the child recommends a specialty
22 consultation; or

23 (3) the child's parent or legal guardian or, if
24 represented by an attorney, the attorney of the parent or legal
25 guardian requests a specialty consultation [~~the system has~~
26 ~~available capacity to take the child's case~~].

27 (c-1) Before referring a child's case under Subsection (c),

1 the department shall provide to the child's parent or legal
2 guardian or, if represented by an attorney, the attorney of the
3 parent or legal guardian written notice of the name, contact
4 information, and credentials of the specialist. The parent, legal
5 guardian, or attorney, as applicable, may object to the proposed
6 referral and request referral to another specialist.

7 (c-2) If a parent or legal guardian or, if represented by an
8 attorney, the attorney of the parent or legal guardian objects to
9 the proposed referral under Subsection (c-1), the department may
10 object to the specialist proposed by the parent, legal guardian, or
11 attorney, as applicable, and propose two alternative specialists.
12 The department and the parent, legal guardian, or attorney, as
13 applicable, shall collaborate in good faith to select an acceptable
14 specialist from the proposed specialists.

15 (e) This section may not be construed to prohibit a child's
16 parent or legal guardian or, if represented by an attorney, the
17 attorney of the parent or legal guardian from otherwise obtaining
18 an alternative opinion at the parent's, legal guardian's, or
19 attorney's, as applicable, own initiative and expense. The
20 department shall accept and consider an alternative opinion
21 obtained and provided under this section and shall document its
22 analysis and determinations regarding the opinion.

23 SECTION 2. Subchapter D, Chapter 261, Family Code, is
24 amended by adding Section 261.30175 to read as follows:

25 Sec. 261.30175. MITIGATION OF PROVIDER CONFLICTS IN ABUSE
26 OR NEGLECT INVESTIGATION CONSULTATIONS. (a) In this section:

27 (1) "Forensic assessment" means a medical

1 examination, psychosocial evaluation, medical case review,
2 specialty evaluation, or other forensic evaluation service
3 conducted by a physician in connection with any investigation of a
4 suspected case of abuse or neglect for the primary purpose of
5 providing the department, law enforcement, or the court with expert
6 advice, recommendations, or testimony on the case.

7 (2) "Health care practitioner" means an individual
8 licensed, certified, or otherwise authorized to administer health
9 care services in the ordinary course of business or professional
10 practice. The term includes a physician, medical student, resident
11 physician, child abuse fellow, advanced practice registered nurse,
12 nurse, and physician assistant.

13 (3) "Network" has the meaning assigned by Section
14 [261.3017](#).

15 (4) "System" has the meaning assigned by Section
16 [261.3017](#).

17 (b) A health care practitioner who reports suspected abuse
18 or neglect of a child may not provide forensic assessment services
19 in connection with an investigation resulting from the report.
20 This subsection applies regardless of whether the practitioner is a
21 member of the network or system.

22 (c) When referring a case for forensic assessment, the
23 department shall refer the case to a physician authorized to
24 practice medicine in this state under Subtitle B, Title 3,
25 Occupations Code, who was not involved with the report of suspected
26 abuse or neglect.

27 (d) In a case in which two physicians' opinions conflict

1 concerning whether a child's injuries or symptoms were the result
2 of abuse or neglect, the department shall refer the case to the
3 Department of State Health Services Medical Advisory Board for
4 independent evaluation.

5 (e) This section may not be construed to:

6 (1) prohibit the department from interviewing the
7 health care practitioner in the practitioner's capacity as a
8 principal or collateral source; or

9 (2) otherwise restrict the department's ability to
10 conduct an investigation as provided by this subchapter.

11 SECTION 3. Section 12.092, Health and Safety Code, is
12 amended by adding Subsection (c) to read as follows:

13 (c) The medical advisory board shall assist the Department
14 of Family and Protective Services in reviewing suspected cases of
15 abuse or neglect in which the conclusion of a forensic assessment
16 conducted in connection with an investigation by the Department of
17 Family and Protective Services conflicts with the opinion of
18 another qualified medical professional who examined or treated the
19 child concerning whether a child's injuries or symptoms were the
20 result of abuse or neglect.

21 SECTION 4. This Act takes effect September 1, 2021.