

By: VanDeaver

H.B. No. 1238

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the school health and related services program,
3 including parental consent for program services, the establishment
4 of a school health and related services program advisory council,
5 and the publication of the School Health and Related Services
6 (SHARS) Handbook portion of the Texas Medicaid Provider Procedures
7 Manual.

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

9 SECTION 1. Subchapter A, Chapter 38, Education Code, is
10 amended by adding Section 38.035 to read as follows:

11 Sec. 38.035. SCHOOL HEALTH AND RELATED SERVICES PROGRAM:
12 PARENTAL CONSENT. (a) For each student for whom a school district
13 or open-enrollment charter school may request reimbursement under
14 the school health and related services program during a school
15 year, the district or school shall obtain written parental consent
16 for disclosure to the district or school, the agency, or the Health
17 and Human Services Commission of the student's personally
18 identifiable information, as necessary to administer the program.

19 (b) The parent's written consent under Subsection (a) must
20 be in a form that satisfies the requirements of the Family
21 Educational Rights and Privacy Act of 1974 (20 U.S.C. Section
22 1232g).

23 (c) A school district or open-enrollment charter school
24 shall provide a copy of a parent's written consent under Subsection

1 (a) to the agency and the Health and Human Services Commission for
2 the agency and the commission to maintain in the agency's and the
3 commission's records as necessary to administer the program.

4 (d) Parental consent obtained in compliance with Subsection
5 (a) for a school year is sufficient for all program-related
6 purposes of the agency or the Health and Human Services Commission
7 involving the use of a student's personally identifiable
8 information for the remainder of that year. The school district or
9 open-enrollment charter school, the agency, or the commission may
10 not require additional parental consent other than the written
11 consent described by Subsection (a) for a program-related purpose
12 that does not involve the sharing of a student's personally
13 identifiable information.

14 SECTION 2. Subchapter B, Chapter 531, Government Code, is
15 amended by adding Section 531.021183 to read as follows:

16 Sec. 531.021183. SCHOOL HEALTH AND RELATED SERVICES (SHARS)
17 HANDBOOK. (a) Not later than July 1 of each year, the commission
18 shall publish an update to the School Health and Related Services
19 (SHARS) Handbook portion of the Texas Medicaid Provider Procedures
20 Manual for providers of services to Medicaid recipients.

21 (b) For at least 60 days before publishing an update to the
22 School Health and Related Services (SHARS) Handbook, the executive
23 commissioner by rule shall establish a procedure allowing the
24 public to inspect and comment on proposed changes to the handbook in
25 the same manner that public inspection and comment is provided in
26 the rulemaking process under Chapter 2001.

27 (c) The commission shall consult the advisory council

1 established under Chapter 106, Health and Safety Code, regarding
2 any proposed changes to the handbook.

3 SECTION 3. Subtitle E, Title 2, Health and Safety Code, is
4 amended by adding Chapter 106 to read as follows:

5 CHAPTER 106. SCHOOL HEALTH AND RELATED SERVICES PROGRAM

6 ADVISORY COUNCIL

7 Sec. 106.001. DEFINITIONS. In this chapter:

8 (1) "Advisory council" means the school health and
9 related services program advisory council established under this
10 chapter.

11 (2) "Agency" means the Texas Education Agency.

12 (3) "SHARS handbook" means the School Health and
13 Related Services (SHARS) Handbook portion of the Texas Medicaid
14 Provider Procedures Manual described by Section 531.021183,
15 Government Code.

16 (4) "Program" means the school health and related
17 services program under which certain health-related services
18 provided under a student's individualized education program are
19 eligible for Medicaid reimbursement.

20 Sec. 106.002. COMPOSITION OF COUNCIL. (a) The advisory
21 council is composed of 13 members as follows:

22 (1) one employee of the agency with administrative
23 duties involving the program;

24 (2) two employees of the commission with
25 administrative duties involving the program;

26 (3) one superintendent or chief financial officer of a
27 school district with a student enrollment of at least 5,000

1 students;

2 (4) one superintendent or chief financial officer of a
3 school district eligible for the allotment under Section 48.101(c),
4 Education Code;

5 (5) one superintendent or chief financial officer of a
6 school district eligible for the allotment under Section 48.101(b)
7 or (d), Education Code;

8 (6) one special education director employed by a
9 school district described by Subdivision (3);

10 (7) one special education director employed by a
11 school district described by Subdivision (4);

12 (8) one special education director employed by a
13 school district described by Subdivision (5);

14 (9) two persons who are each a parent of a student
15 eligible for reimbursement under the program;

16 (10) one member of an advocacy group for children with
17 special needs; and

18 (11) one provider of special education services.

19 (b) The commissioner of education shall appoint the member
20 described by Subsection (a)(1). The executive commissioner or the
21 executive commissioner's designee shall:

22 (1) appoint the remaining 12 members to the advisory
23 council; and

24 (2) designate one member as chair of the advisory
25 council.

26 (c) An appointment to a vacancy on the advisory council
27 shall be made in the same manner as the original appointment. A

1 member is eligible for reappointment.

2 Sec. 106.003. TERMS. Members of the advisory council serve
3 staggered four-year terms, with the terms of six or seven members
4 expiring on August 31 of each odd-numbered year.

5 Sec. 106.004. REIMBURSEMENT. Members of the advisory
6 council serve without compensation but are entitled to
7 reimbursement for travel expenses.

8 Sec. 106.005. COUNCIL DUTIES; ADVISORY STATUS. (a) The
9 advisory council shall advise the agency and the commission
10 regarding:

11 (1) implementing and administering the program;

12 (2) incorporating changes to federal law governing the
13 program;

14 (3) publishing the SHARS handbook, including the
15 adoption of potential amendments to the handbook; and

16 (4) any other issue involving the administration of
17 the program or the publication of the handbook.

18 (b) Chapter 2110, Government Code, does not apply to the
19 advisory council.

20 Sec. 106.006. ADMINISTRATIVE SUPPORT AND FUNDING. (a) The
21 commission shall provide administrative support for the advisory
22 council.

23 (b) Funding for the administrative and operational expenses
24 of the advisory council shall be provided by legislative
25 appropriation made to the commission for that purpose.

26 Sec. 106.007. RULES. The executive commissioner may adopt
27 rules as necessary to implement this chapter.

1 SECTION 4. Notwithstanding Section 531.021183, Government
2 Code, as added by this Act, the Health and Human Services Commission
3 shall publish the update to the School Health and Related Services
4 (SHARS) Handbook portion of the Texas Medicaid Provider Procedures
5 Manual as soon as practicable and not later than October 1, 2023.
6 The Health and Human Services Commission shall publish the update
7 to the handbook by a date not later than July 1 in 2024 and each
8 subsequent year.

9 SECTION 5. As soon as practicable and not later than October
10 1, 2023, the commissioner of education and the executive
11 commissioner of the Health and Human Services Commission shall
12 appoint the members of the school health and related services
13 program advisory council established under Chapter 106, Health and
14 Safety Code, as added by this Act, and shall provide for staggered
15 member terms as required by that chapter.

16 SECTION 6. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2023.