

Amend CSHB 2292 by adding the following appropriately numbered section and renumbering subsequent :

SECTION \_\_. (a) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.076 to read as follows:

Sec. 531.076. RESPONSIBILITIES REGARDING PAY DISPARITY FOR DIRECT SUPPORT PROFESSIONAL SERVICES TO PERSONS WITH MENTAL RETARDATION. (a) In this section:

(1) "Community-based providers of mental retardation services" means:

(A) community centers established under Subchapter A, Chapter 534, Health and Safety Code, that provide community-based mental retardation services; and

(B) private entities that provide community-based mental retardation services under contract with a local mental retardation authority under Subchapter B, Chapter 534, Health and Safety Code.

(2) "Direct support professional services" means services provided directly to or for the benefit of a person receiving mental retardation services through a state-owned or state-operated residential care facility or through a community-based provider.

(3) "Direct support professional services worker" means a person who is employed to provide direct support professional services.

(4) "Disparity amount" means the average difference between the wages and benefits paid to a direct support professional services worker employed by a community-based provider of mental retardation services and the wages and benefits paid to a comparable worker in a state-owned or state-operated residential care facility under the Texas Department of Mental Health and Mental Retardation.

(5) "Mental retardation services" means programs and services provided to a person with mental retardation under the state Medicaid program through:

(A) a community medical assistance program serving persons receiving care in intermediate care facilities for mentally retarded persons; or

(B) a home and community-based services waiver program for persons with mental retardation adopted in accordance with Section 1915(c) of the federal Social Security Act (42 U.S.C. Section 1396n(c)), as amended.

(b) The commission shall reimburse community-based providers of mental retardation services in accordance with this section.

(c) The commissioner shall determine:

(1) the disparity amount; and

(2) the amount by which the reimbursement rate for community-based providers of mental retardation services must be increased to reduce and eliminate the disparity amount in accordance with Subsection (d).

(d) The commissioner shall increase the amount of the direct support professional services cost component of the reimbursement rate paid to community-based providers of mental retardation services by an amount that will:

(1) reduce the disparity amount by one-third not later than September 1, 2005;

(2) reduce the disparity amount by two-thirds not later than September 1, 2006; and

(3) eliminate the disparity amount not later than September 1, 2007.

(e) Before each regular session of the legislature, the commissioner shall include with the commission's legislative appropriations request or other general budget request a request for the appropriation of money in an amount necessary to implement this section.

(f) After the commissioner has eliminated the disparity amount under Subsection (d), the commissioner shall continue to monitor any disparity amount that may occur and as necessary change the reimbursement rate for the direct support professional services component of the aggregate reimbursement rate paid to community-based providers of mental retardation services to equalize the wages and benefits paid to direct support professional services workers employed by community-based providers of mental retardation services and the wages and benefits paid to comparable

workers in state-owned or state-operated residential care facilities.

(g) In determining the disparity amount, the commissioner shall use information available from:

(1) the reimbursement methodology in effect under rules of the commission; and

(2) the state employee compensation schedule used by the Texas Department of Mental Health and Mental Retardation.

(h) The amount of an increase in reimbursement paid to a provider of community-based mental retardation services by the implementation of this section shall be used to increase the compensation of direct support professional services workers employed by that provider.

(i) The commissioner may reduce or eliminate the disparity amount earlier than this section requires.

SECTION \_\_. The commissioner of health and human services shall adopt rules necessary to implement Section 531.076, Government Code, as added by this section, not later than September 1, 2004.