

By: Davis of Harris, Uresti, Eissler,
Farabee

H.B. No. 470

Substitute the following for H.B. No. 470:

By: Davis of Harris

C.S.H.B. No. 470

A BILL TO BE ENTITLED

AN ACT

relating to local delivery of aging, disability, behavioral health,
and mental retardation services.

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

SECTION 1. Chapter 531, Government Code, is amended by
adding Subchapter M to read as follows:

SUBCHAPTER M. REGIONAL SERVICE COORDINATION BY LOCAL SERVICE

AUTHORITIES

Sec. 531.451. RELATION TO OTHER LAW. This subchapter
prevails over any other law related to the regulation or delivery of
services by health and human services agencies to the extent that
the other law is in conflict or inconsistent with this subchapter.

Sec. 531.452. DEFINITIONS. (a) In this subchapter:

(1) "Aging and disability services" includes:

(A) aging services;

(B) mental retardation services; and

(C) community care services for elderly persons
or persons with disabilities.

(2) "Behavioral health services" includes mental
health services and chemical dependency services.

(3) "Chemical dependency" has the meaning assigned by
Section 461.002, Health and Safety Code.

(4) "Chief elected officials" means the county judge
of each county included in a local service region or a person the

1 judge designates to act for the judge under this subchapter.

2 (5) "Community center" has the meaning assigned by
3 Section 531.002, Health and Safety Code.

4 (6) "Local service authority" means a local aging and
5 disability authority or a local behavioral health authority.

6 (7) "Mental health services" has the meaning assigned
7 by Section 531.002, Health and Safety Code.

8 (8) "Mental retardation services" has the meaning
9 assigned by Section 531.002, Health and Safety Code.

10 (b) A reference in other law to a "local mental health
11 authority" means a "local behavioral health authority."

12 (c) A reference in other law to a "local mental retardation
13 authority" means a "local aging and disability authority."

14 (d) A reference in other law to the Texas Department of
15 Mental Health and Mental Retardation means:

16 (1) the executive commissioner when used in relation
17 to the authority to adopt rules or make policy regarding mental
18 health services or mental retardation services;

19 (2) the Department of State Health Services when used
20 in relation to the authority to administer mental health services;
21 and

22 (3) the Department of Aging and Disability Services
23 when used in relation to the authority to administer mental
24 retardation services.

25 Sec. 531.453. DELIVERY SYSTEM FOR AGING, DISABILITY, AND
26 BEHAVIORAL HEALTH SERVICES. (a) In accordance with this
27 subchapter, the executive commissioner shall establish a system for

1 aging and disability services and behavioral health services to be
2 coordinated by local service authorities, with each local service
3 authority having jurisdiction over a local service region and
4 coordinating the provision of services under contract with the
5 Department of Aging and Disability Services or the Department of
6 State Health Services.

7 (b) The executive commissioner shall develop and adopt
8 policies and rules governing the provision of services in the local
9 regions. Rules adopted under this subsection must:

10 (1) address the procedures, methods, and criteria for
11 the Department of Aging and Disability Services or the Department
12 of State Health Services to place a local service authority in
13 receivership for mismanagement or poor performance; and

14 (2) establish comprehensive contract management
15 practices and principles to ensure that:

16 (A) the service delivery systems are both
17 effective and financially accountable at the local service region
18 level;

19 (B) barriers in the application for and delivery
20 of local services are eliminated to the greatest extent
21 practicable; and

22 (C) contract management by each department and
23 local service authority is effective.

24 (c) The executive commissioner shall ensure that a local
25 service authority conducts its assessments of a potential client's
26 financial eligibility for services according to the commission's
27 eligibility system.

1 (d) The Department of Aging and Disability Services and the
2 Department of State Health Services, as appropriate, shall consult
3 with the commission to coordinate the provision of Medicaid
4 services through the local service authorities.

5 (e) The executive commissioner shall develop rules and
6 guidelines for the screening of and coordination of services to
7 persons who require both behavioral health services and aging and
8 disability services.

9 Sec. 531.454. LOCAL SERVICE REGIONS. The local service
10 regions must have the same geographical boundaries as the uniform
11 regional boundaries established for health and human services
12 agencies under Section 531.024.

13 Sec. 531.455. STATE-OPERATED LOCAL SERVICE AUTHORITIES.

14 (a) At the request of the chief elected officials of a region, the
15 Department of Aging and Disability Services or the Department of
16 State Health Services, or both, in consultation with the commission
17 shall establish a state-operated local service authority.

18 (b) The chief elected officials who request a
19 state-operated local service authority for behavioral health
20 services or for aging and disability services must establish an
21 advisory council to guide and inform the decisions of the
22 department responsible for operating the state-operated local
23 service authority. The chief elected officials in establishing the
24 advisory council shall appoint members to that council that conform
25 to the standards for membership of a board of directors of a local
26 service authority provided by Section 531.464.

27 Sec. 531.456. INNOVATIVE PROJECTS. (a) At the request of

1 one or more chief elected officials of a local service region, the
2 Department of Aging and Disability Services or the Department of
3 State Health Services, as appropriate, may designate in a local
4 service region a service delivery area to implement an innovative
5 project for improving the provision of behavioral health services
6 or aging and disability services.

7 (b) The chief elected official or officials, the local
8 service authority, the appropriate department, and the commission
9 shall enter into an agreement that establishes whether an
10 innovative project will be operated through the local service
11 authority or by the state by direct contract.

12 (c) An innovative project must use innovative financing
13 arrangements, innovative service delivery models, innovative
14 business practices, or other innovative methods to improve the
15 delivery of behavioral health services or aging and disability
16 services in furtherance of the goals of this chapter.

17 Sec. 531.457. ROLE OF DEPARTMENT OF AGING AND DISABILITY
18 SERVICES. (a) The Department of Aging and Disability Services, in
19 conjunction with the commission, is responsible for ensuring the
20 provision of aging and disability services and for coordinating the
21 provision of those services locally.

22 (b) The department shall manage contracts with local aging
23 and disability authorities for ensuring the provision of local
24 services.

25 (c) The department, in coordination with the commission,
26 may determine financing options for payment of costs of services to
27 be provided locally and for reimbursement of local service

1 providers.

2 (d) The department is responsible for approving:

3 (1) the creation and operations of local aging and
4 disability authorities in their respective local service regions;
5 and

6 (2) the local service delivery plan for each local
7 service region.

8 (e) The department shall ensure that contracts involving
9 aging services comply with requirements of the federal Older
10 Americans Act of 1965 (42 U.S.C. Section 3001 et seq.).

11 (f) The department shall operate in accordance with state
12 permanency planning laws.

13 (g) The department shall ensure that area agencies on aging
14 comply with the state's requirements regarding Title II of the
15 Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.).

16 (h) The department shall maintain the area agencies on aging
17 and their current designated planning and service areas in
18 accordance with commission rules.

19 (i) The department, in coordination with the commission,
20 shall continue to manage Medicaid contracts with Medicaid
21 providers.

22 Sec. 531.458. ROLE OF DEPARTMENT OF STATE HEALTH SERVICES.

23 (a) The Department of State Health Services, in conjunction with
24 the commission, is responsible for ensuring the provision of
25 behavioral health services and for coordinating the provision of
26 those services locally.

27 (b) The department shall manage contracts with local

1 behavioral health authorities for ensuring the provision of local
2 services.

3 (c) The department, in coordination with the commission,
4 may determine financing options for payment of costs of services to
5 be provided locally and for reimbursement of local service
6 providers.

7 (d) The department is responsible for approving:

8 (1) the creation and operations of local behavioral
9 health authorities in their respective local service regions; and

10 (2) the local service delivery plan for each local
11 service region.

12 (e) The department shall ensure that local behavioral
13 health service delivery systems further the following goals:

14 (1) making the behavioral health care system one that
15 is family-driven and consumer-driven by:

16 (A) requiring individualized plans of care for
17 every adult with a serious mental illness or a substance abuse
18 problem and for every child with a serious emotional disturbance or
19 a substance abuse problem;

20 (B) involving consumers, families, and
21 stakeholders fully in the development of a system that is oriented
22 toward resiliency, disease management, and recovery; and

23 (C) protecting and enhancing the rights of people
24 with mental illness or substance abuse problems;

25 (2) reducing disparities in behavioral health
26 services by improving access to:

27 (A) culturally competent quality care; and

1 (B) quality care in rural and remote areas;

2 (3) enhancing the implementation of the resiliency and
3 disease management model for mental health services; and

4 (4) screening for co-occurring mental and substance
5 abuse disorders and treating persons with integrated treatment
6 strategies.

7 (f) The department shall implement a fee-for-service
8 payment model for regions that select noncapitated fiscal
9 arrangements.

10 Sec. 531.459. ROLES AND DUTIES OF LOCAL SERVICE
11 AUTHORITIES. (a) A local service authority, as a contractor of the
12 Department of Aging and Disability Services or the Department of
13 State Health Services, shall:

14 (1) provide for public access to the intake and
15 assessment process for aging, disability, or behavioral health
16 services needs and for those appropriate activities delegated
17 locally by the state as they relate to eligibility for services; and

18 (2) ensure and authorize the development of service
19 delivery plans for eligible clients of the authority.

20 (b) A local service authority shall endeavor to improve the
21 capacities of the communities by fostering partnerships among
22 service providers and other resources and shall raise community
23 awareness of the available services and service needs of the local
24 service region.

25 (c) A local service authority shall ensure the development
26 and maintenance of:

27 (1) a network of providers of services for the

1 authority's local service region; and

2 (2) other needed resources to support the delivery of
3 services in the authority's local service region.

4 (d) A local service authority may not provide a service
5 directly except as provided by Section 531.460.

6 (e) A local service authority is responsible for
7 coordinating the use of state facilities.

8 (f) A local service authority shall have a continuing
9 quality assurance and quality improvement program to ensure that
10 services delivered are adequate and appropriate.

11 (g) A local service authority shall have an ombudsman
12 program to assist clients of the region and other interested
13 persons in resolving complaints and in making appeals regarding
14 eligibility or regarding services delivered or denied.

15 Sec. 531.460. PROVISION OF MENTAL RETARDATION SERVICES BY
16 COMMUNITY CENTERS THROUGH AUTHORITIES. (a) In this section,
17 "ICF-MR" has the meaning assigned by Section 531.002, Health and
18 Safety Code.

19 (b) A community center may perform assessment and service
20 coordination functions for mental retardation services on behalf of
21 a local service authority for a period to be determined by
22 commission rule.

23 (c) The Department of Aging and Disability Services, in
24 consultation with the commission, shall establish limits on the
25 number of individuals who may be enrolled in waiver and ICF-MR
26 services provided by a community center that also is providing
27 assessment and service coordination functions for mental

1 retardation services on behalf of a local service authority.

2 (d) Rules adopted under this section shall establish a
3 process to allow community centers to provide waiver and ICF-MR
4 services above the enrollment limits established under Subsection
5 (c) under extenuating circumstances.

6 (e) A community center that does not provide assessment and
7 service coordination functions for mental retardation services on
8 behalf of an authority is not subject to the enrollment limits
9 established by the commission in accordance with Subsection (c).

10 Sec. 531.461. PREFERRED PROVIDER STATUS. (a) For a
11 transitional term that expires September 1, 2010, each local
12 service authority shall contract, as appropriate, with community
13 centers and chemical dependency and substance abuse service
14 providers in the local service region that are:

15 (1) providing services on September 1, 2005; and

16 (2) determined to be in good standing.

17 (b) The executive commissioner by rule shall require a local
18 service authority that provides jail diversion services to provide
19 the right of first refusal to community centers to provide those
20 services, if the community center provides those services on
21 September 1, 2005.

22 Sec. 531.462. LOCAL FUNDING. A local service authority
23 that receives money from a local governmental entity shall use the
24 money in accordance with an agreement between the authority and the
25 local governmental entity.

26 Sec. 531.463. LOCAL PLANNING PROCESS. (a) The executive
27 commissioner by rule shall establish a procedure for the chief

1 elect officials of each local service region to convene and
2 establish a governing structure for the region's local behavioral
3 health authority or local aging and disability authority. The
4 rules must provide guidelines for the officials to follow in
5 establishing the responsibilities and functions of each authority
6 and the requirements for approval of a local authority plan.

7 (b) In developing plans for the local service delivery
8 structure, the chief elect officials shall:

9 (1) solicit information, guidance, and comments from
10 interested persons and organizations in the local service region,
11 including persons and organizations who may receive or provide
12 services;

13 (2) evaluate the needs in the local service region for
14 services to be coordinated through the local service authority;

15 (3) evaluate the need for and use of locally provided
16 funding resources;

17 (4) develop methods to improve coordination of local
18 services;

19 (5) consider and encourage the use of innovative
20 service delivery models;

21 (6) address the coordination of programs for those
22 children in the local service delivery plan;

23 (7) consider the use of 16-bed inpatient mental health
24 facilities to maximize the receipt of available federal matching
25 money for mental health services; and

26 (8) develop a mechanism for reporting information to
27 local governmental entities that provide funding to the authority

1 and to chief elected officials who want feedback regarding the
2 activity of the authority.

3 (c) The commission shall make available to the chief elected
4 officials the recommendations of the mental health working group of
5 the Texas State Strategic Health Partnership regarding behavioral
6 health services reform.

7 (d) The commission, the Department of Aging and Disability
8 Services, and the Department of State Health Services shall provide
9 the chief elected officials with needed technical assistance and
10 advice in their efforts to establish the governing structure of a
11 local service authority under this section.

12 (e) The chief elected officials of each local service
13 region, in conjunction with the commission and the appropriate
14 department, shall develop a transition plan for the local service
15 region to transition from the existing authority structure to the
16 regional authority structure established under this subchapter.
17 Each existing local mental health and mental retardation authority
18 with jurisdiction in the local service region shall participate in
19 the development of the transition plan in accordance with rules
20 adopted under this subchapter. The transition plan must provide
21 for services to be delivered without disruption.

22 (f) The chief elected officials shall submit the service
23 delivery and transition plans to the Department of Aging and
24 Disability Services and the Department of State Health Services for
25 approval.

26 (g) The commission and the Department of Aging and
27 Disability Services and the Department of State Health Services

1 jointly shall establish timeframes for the implementation of this
2 section.

3 (h) In developing the local service delivery system under
4 this subchapter, the commission shall endeavor to maximize to the
5 extent practicable federal matching money.

6 Sec. 531.464. COMPOSITION OF BOARDS OF DIRECTORS OF LOCAL
7 SERVICE AUTHORITIES. (a) The chief elected officials of each local
8 service region shall appoint the board of directors of the region's
9 local aging and disability authority and local behavioral health
10 authority.

11 (b) The board of directors for a local service authority
12 must have at least nine members and must reflect the ethnic and
13 geographic diversity of the authority's local service region.

14 (c) The chief elected officials of a local service region
15 are encouraged to include on the board of directors for a local
16 aging and disability authority one or more:

- 17 (1) older residents of the local service region;
18 (2) individuals with a disability who are receiving
19 services;
20 (3) persons with mental retardation;
21 (4) individuals knowledgeable of children's needs and
22 supports; and
23 (5) members of the general public.

24 (d) The chief elected officials of a local service region
25 are encouraged to include on the board of directors for a local
26 behavioral health authority one or more:

- 27 (1) adults with mental illness;

1 (2) parents of children with serious emotional
2 disturbances or histories of substance abuse disorders;

3 (3) persons with histories of chemical dependency;

4 (4) persons with, or persons advocating for persons
5 with, co-occurring behavioral health disorders;

6 (5) retired behavioral health professionals or
7 behavioral health professionals who are licensed but not
8 practicing; and

9 (6) members of the general public.

10 Sec. 531.465. COORDINATION OF STATE FACILITIES. The
11 Department of Aging and Disability Services or the Department of
12 State Health Services, as appropriate, shall coordinate with local
13 service authorities regarding the use of state mental health and
14 mental retardation facilities, services, and buildings by eligible
15 individuals.

16 Sec. 531.466. LOCAL BEHAVIORAL HEALTH AUTHORITY RESOURCES
17 FOR CHILDREN. (a) A local behavioral health authority shall design
18 system of care resources for children with serious emotional
19 disturbances that recognize:

20 (1) the unique needs of such children;

21 (2) the various programs in this state through which a
22 child may be directed to the authority for services; and

23 (3) the various programs available to the child, the
24 child's family, and the authority through which the child and the
25 child's family may receive behavioral health services or other
26 services.

27 (b) A local behavioral health authority shall develop

1 formal partnerships and coordinate with entities in the authority's
2 local service region to ensure that a child with a serious emotional
3 disturbance receives the most appropriate and effective care and
4 services to the extent possible.

5 (c) As appropriate, the authority shall use teams composed
6 of representatives of public and private service providers and
7 members of the child's family to develop individual and family
8 service plans that encompass to the extent possible all appropriate
9 services and direct interagency and provider cooperation as
10 necessary to further the plans.

11 (d) A local behavioral health authority shall establish a
12 system for integrating funding for a child's services to meet the
13 needs of a child and the child's family. In establishing the system
14 the authority shall consider the criteria and expansion plans
15 developed for the Texas Integrated Funding Initiative under
16 Subchapter G-1.

17 SECTION 2. Sections 533.035 and 533.0356, Health and Safety
18 Code, are repealed.

19 SECTION 3. This Act does not authorize the expansion of
20 Medicaid managed care programs, unless the chief elected officials
21 of a local service region established under Subchapter M, Chapter
22 531, Government Code, as added by this Act, choose to implement a
23 managed behavioral health care program.

24 SECTION 4. The executive commissioner of the Health and
25 Human Services Commission shall adopt rules necessary to implement
26 Subchapter M, Chapter 531, Government Code, as added by this Act, on
27 or before December 31, 2006.

1 SECTION 5. This Act takes effect September 1, 2005.