

1-1 By: Nelson S.B. No. 130
1-2 (In the Senate - Filed December 22, 2004; February 1, 2005,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; April 4, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 April 4, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 130 By: Nelson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the provision of health and human services in this
1-11 state.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (1), Section 531.070, Government
1-14 Code, is amended to read as follows:

1-15 (1) Each year the commission shall provide a written report
1-16 to the legislature and the governor. The report shall cover:

1-17 (1) the cost of administering the preferred drug lists
1-18 adopted under Section 531.072;

1-19 (2) an analysis of the utilization trends for medical
1-20 services provided by the state and any correlation to the preferred
1-21 drug lists;

1-22 (3) an analysis of the effect on health outcomes and
1-23 results for recipients; ~~and~~

1-24 (4) statistical information related to the number of
1-25 approvals granted or denied; and

1-26 (5) an analysis of the effect during the preceding
1-27 year of the implementation of the Medicare Prescription Drug,
1-28 Improvement, and Modernization Act of 2003 (Pub. L. No. 108-173) on
1-29 the preferred drug lists adopted under Section 531.072 and the
1-30 prior authorization requirements under Section 531.073.

1-31 SECTION 2. Subsection (b), Section 531.073, Government
1-32 Code, is amended to read as follows:

1-33 (b) The commission shall establish procedures for the prior
1-34 authorization requirement under the Medicaid vendor drug program to
1-35 ensure that the requirements of 42 U.S.C. Section 1396r-8(d)(5) and
1-36 its subsequent amendments are met. Specifically, the procedures
1-37 must ensure that:

1-38 (1) ~~[a prior authorization requirement is not imposed~~
1-39 ~~for a drug before the drug has been considered at a meeting of the~~
1-40 ~~Pharmaceutical and Therapeutics Committee established under~~
1-41 ~~Section 531.074,~~

1-42 ~~[(2)]~~ there will be a response to a request for prior
1-43 authorization by telephone or other telecommunications device
1-44 within 24 hours after receipt of a request for prior authorization;
1-45 and

1-46 (2) ~~[(3)]~~ a 72-hour supply of the drug prescribed
1-47 will be provided in an emergency or if the commission does not
1-48 provide a response within the time required by Subdivision (1)
1-49 ~~[(2)].~~

1-50 SECTION 3. Section 531.1021, Government Code, is amended by
1-51 amending Subsection (g) and adding Subsections (h) and (i) to read
1-52 as follows:

1-53 (g) Except as provided by Subsection (h), all ~~[All]~~
1-54 information and materials subpoenaed or compiled by the office in
1-55 connection with a fraud and abuse ~~[an]~~ investigation are
1-56 confidential and not subject to disclosure under Chapter 552, and
1-57 not subject to disclosure, discovery, subpoena, or other means of
1-58 legal compulsion for their release to anyone other than the office
1-59 or its employees or agents involved in the investigation conducted
1-60 by the office, except that this information may be disclosed to the
1-61 office of the attorney general and other law enforcement agencies.

1-62 (h) This section may not be interpreted to prohibit the
1-63 disclosure of information contained in a closed fraud and abuse

investigative case file or information contained in a fraud and abuse investigative case file relating to a case that has been resolved by settlement, unless disclosure is otherwise prohibited by law.

(i) For purposes of this section, a fraud and abuse investigation is any formal inquiry of the office of inspector general that:

(1) is based upon a suspicion of fraud, as defined by Section 531.1011, in the provision of health and human services; or

(2) supports a claim by the state or a health and human services agency of fraud in the provision of health and human services.

SECTION 4. Subchapter D, Chapter 1001, Health and Safety Code, is amended by adding Section 1001.0711 to read as follows:

Sec. 1001.0711. SCHOOL HEALTH ADVISORY COMMITTEE. (a) The department by rule shall establish a School Health Advisory Committee to provide assistance to the council in establishing a leadership role for the department in support for and delivery of coordinated school health programs and school health services.

(b) The committee shall include at least:

(1) one representative from the Department of Agriculture, appointed by the commissioner of agriculture; and

(2) one representative from the Texas Education Agency, appointed by the commissioner of education.

(c) Section 2110.008, Government Code, does not apply to a committee created under this section.

SECTION 5. Subsection (a), Section 604.154, Occupations Code, is amended to read as follows:

(a) The board shall establish for the renewal of a certificate uniform continuing education requirements of not less than six or more than 12 continuing education hours annually [~~for each renewal period~~].

SECTION 6. The following are repealed:

(1) Chapter 111, Health and Safety Code; and

(2) Subsection (e), Section 431.116, and Subsection (d), Section 431.208, Health and Safety Code.

SECTION 7. The Interagency Council on Pharmaceuticals Bulk Purchasing is abolished on the effective date of this Act.

SECTION 8. (a) Not later than January 1, 2006, the Department of State Health Services shall adopt rules to establish the School Health Advisory Committee as provided by Section 1001.0711, Health and Safety Code, as added by this Act.

(b) The change in law made by this Act relating to the renewal of a certificate to practice respiratory care applies only to a certificate that is renewed on or after the effective date of this Act. A certificate that is renewed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(c) If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 9. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

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