

By: Zaffirini

S.B. No. 35

A BILL TO BE ENTITLED

AN ACT

relating to mortality review for certain individuals who are developmentally disabled.

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

SECTION 1. Chapter 161, Human Resources Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. MORTALITY REVIEW FOR CERTAIN INDIVIDUALS WHO ARE DEVELOPMENTALLY DISABLED

Sec. 161.201. DEFINITION. In this subchapter, "health care provider" means an individual or facility licensed, certified, or otherwise authorized to administer health or mental health care, for profit or otherwise, in the ordinary course of business or professional practice.

Sec. 161.202. APPLICABILITY. This subchapter applies to the death of a person with a developmental disability who, at the time of the person's death, resided in or received services from a facility or agency operated or licensed by the department.

Sec. 161.203. MORTALITY REVIEW TEAMS. (a) The department shall establish a regional mortality review team in each local mental retardation authority service area.

(b) The executive commissioner shall appoint to each mortality review team at least three individuals, including a physician or registered nurse with expertise regarding the medical treatment of individuals with developmental disabilities. The

1 review team may also include:

2 (1) a representative of a state school in the
3 mortality review team's service area;

4 (2) a representative of the local mental retardation
5 authority;

6 (3) an educator with experience working with
7 individuals with developmental disabilities; or

8 (4) other community representatives with relevant
9 experience working with individuals with developmental
10 disabilities.

11 (c) The members of a mortality review team shall select a
12 presiding officer for the mortality review team.

13 (d) Members serve for staggered terms of three years, with
14 the term of one member expiring February 1 each year.

15 (e) An appointment to a vacancy on the mortality review team
16 shall be made in the same manner as the original appointment. A
17 member is eligible for reappointment.

18 (f) A member of a mortality review team is not entitled to
19 compensation for serving on the team but is entitled to
20 reimbursement for the member's travel expenses as provided in the
21 General Appropriations Act. Reimbursement under this subsection
22 shall be paid from funds appropriated to the department for that
23 purpose.

24 Sec. 161.204. POWERS AND DUTIES OF MORTALITY REVIEW TEAM.

25 (a) A mortality review team may conduct a meeting by telephone
26 conference call or other electronic medium.

27 (b) Meetings of a mortality review team are closed to the

1 public and are not subject to Chapter 551, Government Code.

2 (c) Each mortality review team shall initially review and
3 investigate the circumstances and causes of each death in the
4 mortality review team's service area of a person to whom this
5 subchapter applies to determine whether further review regarding
6 that death is necessary.

7 (d) The mortality review team shall complete an in-depth
8 review regarding the death of the person if the mortality review
9 team finds, after an initial review, that the death of the person:

- 10 (1) is unexpected or the result of an accident; or
11 (2) involves suspicious circumstances that may
12 indicate possible abuse or neglect.

13 Sec. 161.205. ACCESS TO INFORMATION. (a) A mortality
14 review team may request information and records regarding a
15 deceased person as necessary to carry out the mortality review
16 team's duties. Records and information that may be requested under
17 this section include:

18 (1) medical, dental, and mental health care
19 information; and

20 (2) information and records maintained by any state or
21 local government agency, including:

- 22 (A) a birth certificate;
23 (B) law enforcement investigative data;
24 (C) medical examiner investigative data;
25 (D) juvenile court records;
26 (E) parole and probation information and
27 records; and

1 (F) adult or child protective services
2 information and records.

3 (b) On request of the presiding officer of a review team,
4 the custodian of the relevant information and records relating to a
5 deceased person shall provide those records to the mortality review
6 team at no charge.

7 Sec. 161.206. MORTALITY REVIEW REPORT. (a) The mortality
8 review team shall submit a written report to the department
9 regarding the findings of the mortality review team for each review
10 and in-depth review of the death of a person to whom this subchapter
11 applies.

12 (b) The mortality review team may include suggestions for
13 improving statewide practices relating to the care and treatment of
14 individuals with developmental disabilities in the report.

15 Sec. 161.207. USE AND PUBLICATION RESTRICTIONS;
16 CONFIDENTIALITY. (a) The department or mortality review team may
17 use or publish information under this subchapter only to advance
18 statewide practices regarding the treatment and care of individuals
19 with mental, physical, or developmental disabilities. A summary of
20 the data in mortality review team reports or statistical
21 compilation of data reports may be released by the department for
22 general publication, if the summary or statistical compilation does
23 not contain any information that would permit the identification of
24 an individual.

25 (b) Information and records acquired by a mortality review
26 team in the exercise of its duties under this subchapter are
27 confidential and exempt from disclosure under the open records law,

1 Chapter 552, Government Code, and may only be disclosed as
2 necessary to carry out the mortality review team's duties.

3 (c) The identity of a person whose death was reviewed in
4 accordance with this subchapter is confidential and may not be
5 revealed.

6 (d) The identity of a health care provider or the name of a
7 facility or agency that provided services to or was the residence of
8 a person whose death was reviewed in accordance with this
9 subchapter is confidential and may not be revealed.

10 (e) Reports, information, statements, memoranda, and other
11 information furnished under this subchapter and any findings or
12 conclusions resulting from a review by a mortality review team are
13 privileged.

14 Sec. 161.208. LIMITATION ON LIABILITY. (a) A health care
15 provider or other person is not civilly or criminally liable for
16 furnishing information to the department for use by a mortality
17 review team unless the person acted in bad faith or knowingly
18 provided false information to the department.

19 (b) A member of a mortality review team is not liable for
20 damages to a person for a report or recommendation made by the
21 mortality review team if the member acts in good faith and in the
22 reasonable belief that the report is accurate and the
23 recommendation is warranted by the facts known to the mortality
24 review team.

25 SECTION 2. If, before implementing any provision of this
26 Act, a state agency determines that a waiver or authorization from a
27 federal agency is necessary for implementation of that provision,

1 the agency affected by the provision shall request the waiver or
2 authorization and may delay implementing that provision until the
3 waiver or authorization is granted.

4 SECTION 3. This Act takes effect September 1, 2009.