

By: Madden

H.B. No. 26

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the containment of costs incurred in the correctional  
3 health care system and to studies regarding delivery of health care  
4 services by certain nurses.

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

6 SECTION 1. Subchapter C, Chapter 499, Government Code, is  
7 amended by adding Section 499.055 to read as follows:

8 Sec. 499.055. POPULATION MANAGEMENT BASED ON INMATE HEALTH.

9 The department shall adopt policies designed to manage inmate  
10 population based on similar health conditions suffered by inmates.  
11 The policies adopted under this section must maximize  
12 organizational efficiencies and reduce health care costs to the  
13 department by housing inmates with similar health conditions in the  
14 same unit or units that are, if possible, served by or located near  
15 one or more specialty health care providers most likely to be needed  
16 for the treatment of the health condition.

17 SECTION 2. (a) Section 501.063, Government Code, is  
18 amended to read as follows:

19 Sec. 501.063. INMATE FEE [~~COPAYMENTS~~] FOR [~~CERTAIN~~]  
20 CARE [~~VISITS~~]. (a)(1) An inmate confined in a facility operated by  
21 or under contract with the department, other than a halfway house,  
22 who initiates a visit to a health care provider shall pay a health  
23 care services fee [~~make a copayment~~] to the department in the amount  
24 of \$100 [~~\$3~~].

1           (2) The fee imposed under Subdivision (1) covers all  
2 visits to a health care provider that the inmate initiates until the  
3 first anniversary of the imposition of the fee.

4           (3) The inmate shall pay [~~make~~] the fee [~~copayment~~]  
5 out of the inmate's trust fund. If the balance in the fund is  
6 insufficient to cover the fee [~~copayment~~], 50 percent of each  
7 deposit to the fund shall be applied toward the balance owed until  
8 the total amount owed is paid.

9           (b) [~~The department may not charge a copayment for health~~  
10 ~~care:~~

11            ~~[(1) provided in response to a life-threatening or~~  
12 ~~emergency situation affecting the inmate's health;~~

13            ~~[(2) initiated by the department;~~

14            ~~[(3) initiated by the health care provider or~~  
15 ~~consisting of routine follow-up, prenatal, or chronic care; or~~

16            ~~[(4) provided under a contractual obligation that is~~  
17 ~~established under the Interstate Corrections Compact or under an~~  
18 ~~agreement with another state that precludes assessing a copayment.~~

19            ~~[(c)]~~ The department shall adopt policies to ensure that  
20 before any deductions are made from an inmate's trust fund under  
21 this section [~~an inmate initiates a visit to a health care~~  
22 ~~provider~~], the inmate is informed that the health care services fee  
23 [~~a \$3 copayment~~] will be deducted from the inmate's trust fund as  
24 required by Subsection (a).

25            (c) [~~(d)~~] The department may not deny an inmate access to  
26 health care as a result of the inmate's failure or inability to pay  
27 a fee under this section [~~make a copayment~~].

1           (d) [~~(e)~~] The department shall deposit money received under  
2 this section in an account in the general revenue fund that may be  
3 used only to pay the cost of correctional health care  
4 [~~administering this section~~]. At the beginning of each fiscal  
5 year, the comptroller shall transfer any surplus from the preceding  
6 fiscal year to the state treasury to the credit of the general  
7 revenue fund.

8           (b) Effective September 1, 2015, Section 501.063,  
9 Government Code, is amended to read as follows:

10           Sec. 501.063. INMATE COPAYMENTS FOR CERTAIN HEALTH CARE  
11 VISITS. (a) An inmate confined in a facility operated by or under  
12 contract with the department, other than a halfway house, who  
13 initiates a visit to a health care provider shall make a copayment  
14 to the department in the amount of \$3. The inmate shall make the  
15 copayment out of the inmate's trust fund. If the balance in the  
16 fund is insufficient to cover the copayment, 50 percent of each  
17 deposit to the fund shall be applied toward the balance owed until  
18 the total amount owed is paid.

19           (b) The department may not charge a copayment for health  
20 care:

21                   (1) provided in response to a life-threatening or  
22 emergency situation affecting the inmate's health;

23                   (2) initiated by the department;

24                   (3) initiated by the health care provider or  
25 consisting of routine follow-up, prenatal, or chronic care; or

26                   (4) provided under a contractual obligation that is  
27 established under the Interstate Corrections Compact or under an

1 agreement with another state that precludes assessing a copayment.

2 (c) The department shall adopt policies to ensure that  
3 before an inmate initiates a visit to a health care provider, the  
4 inmate is informed that a \$3 copayment will be deducted from the  
5 inmate's trust fund as required by Subsection (a).

6 (d) The department may not deny an inmate access to health  
7 care as a result of the inmate's failure or inability to make a  
8 copayment.

9 (e) The department shall deposit money received under this  
10 section in an account in the general revenue fund that may be used  
11 only to pay the cost of administering this section. At the  
12 beginning of each fiscal year, the comptroller shall transfer any  
13 surplus from the preceding fiscal year to the state treasury to the  
14 credit of the general revenue fund.

15 SECTION 3. Subchapter B, Chapter 501, Government Code, is  
16 amended by adding Section 501.067 to read as follows:

17 Sec. 501.067. AVAILABILITY OF CERTAIN MEDICATION. (a) In  
18 this section, "over-the-counter medication" means medication that  
19 may legally be sold and purchased without a prescription.

20 (b) The department shall make over-the-counter medication  
21 available for purchase by inmates in each inmate commissary  
22 operated by or under contract with the department.

23 (c) The department may not deny an inmate access to  
24 over-the-counter medications as a result of the inmate's inability  
25 to pay for the medication. The department shall pay for the cost of  
26 over-the-counter medication for inmates who are unable to pay for  
27 the medication out of the profits of inmate commissaries operated

1 by or under contract with the department.

2 (d) The department may adopt policies concerning the sale  
3 and purchase of over-the-counter medication under this section as  
4 necessary to ensure the safety and security of inmates in the  
5 custody of, and employees of, the department, including policies  
6 concerning the quantities and types of over-the-counter medication  
7 that may be sold and purchased under this section.

8 SECTION 4. Section 501.147(d), Government Code, is amended  
9 to read as follows:

10 (d) Notwithstanding Subsection (c) or any other provision  
11 of this subchapter [~~For services that the public medical schools~~  
12 ~~and their components and affiliates cannot provide], the department~~

13 may [~~committee shall~~] initiate a competitive bidding process for  
14 contracts [~~with other providers~~] for medical care to persons  
15 confined by the department.

16 SECTION 5. Subchapter E, Chapter 501, Government Code, is  
17 amended by adding Section 501.1485 to read as follows:

18 Sec. 501.1485. CORRECTIONS MEDICATION AIDES. (a) The  
19 department, in cooperation with The University of Texas Medical  
20 Branch at Galveston and the Texas Tech University Health Sciences  
21 Center, shall develop and implement a training program for  
22 corrections medication aides that uses a curriculum specific to  
23 administering medication in a correctional setting.

24 (b) In developing the curriculum for the training program,  
25 the department, The University of Texas Medical Branch at  
26 Galveston, and the Texas Tech University Health Sciences Center  
27 shall:

1           (1) consider the content of the curriculum developed  
2 by the American Correctional Association for certified corrections  
3 nurses; and

4           (2) modify as appropriate the content of the  
5 curriculum developed under Chapter 242, Health and Safety Code, for  
6 medication aides administering medication in convalescent and  
7 nursing homes and related institutions to produce content suitable  
8 for administering medication in a correctional setting.

9           (c) The department shall submit an application for the  
10 approval of a training program developed under this section,  
11 including the curriculum, to the Department of Aging and Disability  
12 Services in the manner established by the executive commissioner of  
13 the Health and Human Services Commission under Section 161.083,  
14 Human Resources Code.

15           SECTION 6. Section 251.012, Health and Safety Code, is  
16 amended to read as follows:

17           Sec. 251.012. EXEMPTIONS FROM LICENSING REQUIREMENT. The  
18 following facilities are not required to be licensed under this  
19 chapter:

20           (1) a home and community support services agency  
21 licensed under Chapter 142 with a home dialysis designation;

22           (2) a hospital licensed under Chapter 241 that  
23 provides dialysis only to individuals receiving:

24                   (A) [~~individuals receiving~~] inpatient services  
25 from the hospital; or

26                   (B) [~~individuals receiving~~] outpatient services  
27 due to a disaster declared by the governor or a federal disaster

1 declared by the president of the United States occurring in this  
2 state or another state during the term of the disaster declaration;  
3 [~~or~~]

4 (3) a hospital operated by or on behalf of the state as  
5 part of the managed health care provider network established under  
6 Chapter 501, Government Code, that provides dialysis only to  
7 individuals receiving:

8 (A) inpatient services from the hospital; or

9 (B) outpatient services while serving a term of  
10 confinement in a facility operated by or under contract with the  
11 Texas Department of Criminal Justice;

12 (4) an end stage renal disease facility operated by or  
13 on behalf of the state as part of the managed health care provider  
14 network established under Chapter 501, Government Code, that  
15 provides dialysis only to individuals receiving those services  
16 while serving a term of confinement in a facility operated by or  
17 under contract with the Texas Department of Criminal Justice; or

18 (5) the office of a physician unless the office is used  
19 primarily as an end stage renal disease facility.

20 SECTION 7. Subchapter D, Chapter 161, Human Resources Code,  
21 is amended by adding Section 161.083 to read as follows:

22 Sec. 161.083. CORRECTIONS MEDICATION AIDES. (a) The  
23 executive commissioner shall establish:

24 (1) minimum standards and procedures for the approval  
25 of corrections medication aide training programs, including  
26 curricula, developed under Section 501.1485, Government Code;

27 (2) minimum requirements for the issuance, denial,

1 renewal, suspension, and revocation of a permit to a corrections  
2 medication aide, including the payment of an application or renewal  
3 fee in an amount necessary to cover the costs incurred by the  
4 department in administering this section; and

5 (3) the acts and practices that are within and outside  
6 the scope of a permit issued under this section.

7 (b) Not later than the 90th day after receipt of an  
8 application for approval of a corrections medication aide training  
9 program developed under Section 501.1485, Government Code, the  
10 department shall:

11 (1) approve the program, if the program meets the  
12 minimum standards and procedures established under Subsection  
13 (a)(1); or

14 (2) provide notice to the Texas Department of Criminal  
15 Justice that the program is not approved and include in the notice a  
16 description of the actions that are required for the program to be  
17 approved.

18 (c) The department shall issue a permit to or renew the  
19 permit of an applicant who meets the minimum requirements  
20 established under Subsection (a)(2). The department shall  
21 coordinate with the Texas Department of Criminal Justice in the  
22 performance of the department's duties and functions under this  
23 subsection.

24 SECTION 8. INTERIM STUDY OF INDEPENDENT PRESCRIPTIVE  
25 AUTHORITY FOR ADVANCED PRACTICE REGISTERED NURSES. (a) The  
26 speaker of the house and the lieutenant governor shall create and  
27 appoint a joint interim committee composed of a combination of



1 legislators, state officials and citizen members to conduct a joint  
2 study as described by Subsection (b).

3 (b) The study shall examine the independent authority of  
4 advanced practice registered nurses to diagnose and prescribe drugs  
5 and medical devices within the scope of the health care providers'  
6 practice and license, including the impact on inmate health in  
7 Texas Department of Criminal Justice facilities, including any the  
8 potential cost savings and other foreseeable consequences of  
9 expanding the authority in the Nursing Practice Act of advanced  
10 practice registered nurses in Texas Department of Criminal Justice  
11 facilities to prescribe medication to patients without statutory  
12 requirements for physician delegation or collaboration.

13 (c) Not later than January 1, 2013, the committees shall  
14 report the committees' finding and recommendations to the  
15 lieutenant governor, the speaker of the house of representatives,  
16 and the governor. The committees shall include in their  
17 recommendations specific changes to statutes and agency rules that  
18 may be necessary according to the results of the committees' study  
19 conducted under this section.

20 (d) Not later than November 1, 2011, the lieutenant governor  
21 and the speaker of the house of representatives shall issue the  
22 joint interim charge required by this section.

23 (e) This section expires January 1, 2013.

24 SECTION 9. (a) The Institute for Health Policy at the  
25 School of Public Health at The University of Texas Health Science  
26 Center at Houston shall study, with respect to patients who receive  
27 health care services from an advanced practice nurse, as that term

1 is defined in Section 301.152, Occupations Code, patient safety and  
2 outcomes, including quality of care, health care costs, access to  
3 health care, and any other measures determined by the institute.

4 (b) Not later than October 15, 2012, the Institute for  
5 Health Policy shall report its findings to the governor, the  
6 lieutenant governor, the speaker of the house of representatives,  
7 the Senate Health and Human Services Committee or its successor,  
8 and the House Public Health Committee or its successor and the joint  
9 interim committee created and appointed to study independent  
10 prescriptive authority for advanced practice registered nurses.

11 (c) This section expires September 1, 2013.

12 SECTION 10. (a) The change in law made by this Act to  
13 Section 501.147(d), Government Code, does not affect a contract  
14 executed before the effective date of this Act. Such a contract is  
15 governed by the law as it existed immediately before the effective  
16 date of this Act, and that law is continued in effect for that  
17 purpose.

18 (b) The amendment of Section 501.147(d), Government Code,  
19 by this Act prevails over any conflicting amendment of that section  
20 by S.B. No. 1 of the 82nd Legislature, 1st Called Session, 2011,  
21 regardless of the relative dates of enactment.

22 SECTION 11. (a) The Texas Department of Criminal Justice,  
23 in cooperation with The University of Texas Medical Branch at  
24 Galveston, the Texas Tech University Health Sciences Center, or a  
25 successor correctional managed health care provider, shall develop  
26 the training program required by Section 501.1485, Government Code,  
27 as added by this Act, and the department shall submit an application

1 for approval of that program, as required by Subsection (c) of that  
2 section, not later than January 1, 2012. If after the effective  
3 date of this Act and before the date the department develops the  
4 training program described by this subsection The University of  
5 Texas Medical Branch at Galveston and the Texas Tech University  
6 Health Sciences Center are no longer represented on the  
7 Correctional Managed Health Care Committee, or no longer serve as  
8 correctional managed health care providers, the executive director  
9 of the department shall request and receive the cooperation of any  
10 other state agency determined by the executive director to be an  
11 appropriate resource in the development of the program.

12 (b) The change in law made by this Act in amending Section  
13 251.012, Health and Safety Code, applies only to dialysis services  
14 provided on or after the effective date of this Act. Dialysis  
15 services provided before the effective date of this Act are covered  
16 by the law in effect immediately before that date, and the former  
17 law is continued in effect for that purpose.

18 (c) The executive commissioner of the Health and Human  
19 Services Commission shall establish the minimum standards and  
20 requirements and the acts and practices allowed or prohibited, as  
21 required by Section 161.083, Human Resources Code, as added by this  
22 Act, not later than January 1, 2012.

23 SECTION 12. This Act takes effect on the 91st day after the  
24 last day of the legislative session.