

By: Madden

H.B. No. 26

A BILL TO BE ENTITLED

AN ACT

relating to the containment of costs incurred in the correctional health care system.

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

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

Sec. 499.055. POPULATION MANAGEMENT BASED ON INMATE HEALTH.

The department shall adopt policies designed to manage inmate population based on similar health conditions suffered by inmates.

The policies adopted under this section must maximize organizational efficiencies and reduce health care costs to the department by housing inmates with similar health conditions in the same unit or units that are, if possible, served by or located near one or more specialty health care providers most likely to be needed for the treatment of the health condition.

SECTION 2. Section 501.063, Government Code, is amended to read as follows:

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

(2) The fee imposed under Subdivision (1) covers all

1 visits to a health care provider that the inmate initiates until the
2 first anniversary of the imposition of the fee.

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

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

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

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

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

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

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

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

27 (d) [~~(e)~~] The department shall deposit money received under

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

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

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

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

15 (c) The department may not deny an inmate access to
16 over-the-counter medications as a result of the inmate's inability
17 to pay for the medication. The department shall pay for the cost of
18 over-the-counter medication for inmates who are unable to pay for
19 the medication out of the profits of inmate commissaries operated
20 by or under contract with the department.

21 (d) The department may adopt policies concerning the sale
22 and purchase of over-the-counter medication under this section as
23 necessary to ensure the safety and security of inmates in the
24 custody of, and employees of, the department, including policies
25 concerning the quantities and types of over-the-counter medication
26 that may be sold and purchased under this section.

27 SECTION 4. Subchapter E, Chapter 501, Government Code, is

1 amended by adding Section 501.1485 to read as follows:

2 Sec. 501.1485. CORRECTIONS MEDICATION AIDES. (a) The
3 department, in cooperation with The University of Texas Medical
4 Branch at Galveston and the Texas Tech University Health Sciences
5 Center, shall develop and implement a training program for
6 corrections medication aides that uses a curriculum specific to
7 administering medication in a correctional setting.

8 (b) In developing the curriculum for the training program,
9 the department, The University of Texas Medical Branch at
10 Galveston, and the Texas Tech University Health Sciences Center
11 shall:

12 (1) consider the content of the curriculum developed
13 by the American Correctional Association for certified corrections
14 nurses; and

15 (2) modify as appropriate the content of the
16 curriculum developed under Chapter 242, Health and Safety Code, for
17 medication aides administering medication in convalescent and
18 nursing homes and related institutions to produce content suitable
19 for administering medication in a correctional setting.

20 (c) The department shall submit an application for the
21 approval of a training program developed under this section,
22 including the curriculum, to the Department of Aging and Disability
23 Services in the manner established by the executive commissioner of
24 the Health and Human Services Commission under Section 161.083,
25 Human Resources Code.

26 SECTION 5. Section 251.012, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 251.012. EXEMPTIONS FROM LICENSING REQUIREMENT. The
2 following facilities are not required to be licensed under this
3 chapter:

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

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

8 (A) [~~individuals receiving~~] inpatient services
9 from the hospital; or

10 (B) [~~individuals receiving~~] outpatient services
11 due to a disaster declared by the governor or a federal disaster
12 declared by the president of the United States occurring in this
13 state or another state during the term of the disaster declaration;
14 [~~or~~]

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

19 (A) inpatient services from the hospital; or

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

23 (4) an end stage renal disease facility operated by or
24 on behalf of the state as part of the managed health care provider
25 network established under Chapter 501, Government Code, that
26 provides dialysis only to individuals receiving those services
27 while serving a term of confinement in a facility operated by or

1 under contract with the Texas Department of Criminal Justice; or

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

4 SECTION 6. Subchapter D, Chapter 161, Human Resources Code,
5 is amended by adding Section 161.083 to read as follows:

6 Sec. 161.083. CORRECTIONS MEDICATION AIDES. (a) The
7 executive commissioner shall establish:

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

11 (2) minimum requirements for the issuance, denial,
12 renewal, suspension, and revocation of a permit to a corrections
13 medication aide, including the payment of an application or renewal
14 fee in an amount necessary to cover the costs incurred by the
15 department in administering this section; and

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

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

22 (1) approve the program, if the program meets the
23 minimum standards and procedures established under Subsection
24 (a)(1); or

25 (2) provide notice to the Texas Department of Criminal
26 Justice that the program is not approved and include in the notice a
27 description of the actions that are required for the program to be

1 approved.

2 (c) The department shall issue a permit to or renew the
3 permit of an applicant who meets the minimum requirements
4 established under Subsection (a)(2). The department shall
5 coordinate with the Texas Department of Criminal Justice in the
6 performance of the department's duties and functions under this
7 subsection.

8 SECTION 7. (a) The Texas Department of Criminal Justice, in
9 cooperation with The University of Texas Medical Branch at
10 Galveston, the Texas Tech University Health Sciences Center, or a
11 successor correctional managed health care provider, shall develop
12 the training program required by Section 501.1485, Government Code,
13 as added by this Act, and the department shall submit an application
14 for approval of that program, as required by Subsection (c) of that
15 section, not later than January 1, 2012. If after the effective
16 date of this Act and before the date the department develops the
17 training program described by this subsection The University of
18 Texas Medical Branch at Galveston and the Texas Tech University
19 Health Sciences Center are no longer represented on the
20 Correctional Managed Health Care Committee, or no longer serve as
21 correctional managed health care providers, the executive director
22 of the department shall request and receive the cooperation of any
23 other state agency determined by the executive director to be an
24 appropriate resource in the development of the program.

25 (b) The change in law made by this Act in amending Section
26 251.012, Health and Safety Code, applies only to dialysis services
27 provided on or after the effective date of this Act. Dialysis

1 services provided before the effective date of this Act are covered
2 by the law in effect immediately before that date, and the former
3 law is continued in effect for that purpose.

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

9 SECTION 8. This Act takes effect on the 91st day after the
10 last day of the legislative session.