

1-1 By: Coleman, Naishtat, Marquez H.B. No. 2229
1-2 (Senate Sponsor - Ellis)
1-3 (In the Senate - Received from the House April 28, 2011;
1-4 April 28, 2011, read first time and referred to Committee on Health
1-5 and Human Services; May 11, 2011, reported favorably by the
1-6 following vote: Yeas 8, Nays 1; May 11, 2011, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the creation of the Texas HIV Medication Advisory
1-10 Committee.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Chapter 85, Health and Safety Code, is amended by
1-13 adding Subchapter K to read as follows:

1-14 SUBCHAPTER K. TEXAS HIV MEDICATION ADVISORY COMMITTEE
1-15 Sec. 85.271. DEFINITIONS. In this subchapter:

1-16 (1) "Commissioner" means the commissioner of the
1-17 department.

1-18 (2) "Committee" means the Texas HIV Medication
1-19 Advisory Committee.

1-20 (3) "Executive commissioner" means the executive
1-21 commissioner of the Health and Human Services Commission.

1-22 (4) "Program" means the Texas HIV medication program
1-23 established under Subchapter C.

1-24 Sec. 85.272. TEXAS HIV MEDICATION ADVISORY COMMITTEE.

1-25 (a) The executive commissioner shall establish the committee.

1-26 (b) The committee consists of 11 members appointed by the
1-27 executive commissioner. The committee must include:

1-28 (1) three physicians who are actively engaged in the
1-29 treatment of adults who are infected with HIV;

1-30 (2) one physician who is actively engaged in the
1-31 treatment of infants and children who are infected with HIV;

1-32 (3) four consumers who are diagnosed with HIV;

1-33 (4) one person who is an administrator for a public,
1-34 nonprofit hospital that provides services to individuals who are
1-35 infected with HIV;

1-36 (5) one social worker who works with individuals who
1-37 are infected with HIV; and

1-38 (6) one pharmacist who participates in the program.

1-39 (c) The department shall provide staff support for the
1-40 committee.

1-41 (d) Except as provided by this subchapter, the committee is
1-42 subject to Chapter 2110, Government Code.

1-43 Sec. 85.273. DUTIES. (a) The committee shall advise the
1-44 executive commissioner and the department in the development of
1-45 procedures and guidelines for the program.

1-46 (b) The committee shall:

1-47 (1) review the program's goals and aims;

1-48 (2) evaluate the program's ongoing efforts;

1-49 (3) recommend both short-range and long-range goals
1-50 and objectives for medication needs; and

1-51 (4) perform any other tasks assigned by the executive
1-52 commissioner.

1-53 Sec. 85.274. TERMS. A committee member serves at the will
1-54 of the executive commissioner.

1-55 Sec. 85.275. OFFICERS. (a) The committee shall select a
1-56 presiding officer and an assistant presiding officer from the
1-57 committee members.

1-58 (b) An officer shall begin serving on March 1 of each
1-59 odd-numbered year and serve until February 27 of the following
1-60 odd-numbered year.

1-61 (c) An officer may continue to serve until a replacement is
1-62 elected for the officer's position.

1-63 (d) The presiding officer shall:

1-64 (1) preside at all committee meetings attended by the

- 2-1 presiding officer;
 2-2 (2) call meetings in accordance with this subchapter;
 2-3 (3) appoint subcommittees as necessary; and
 2-4 (4) ensure annual reports are made to the
 2-5 commissioner.
 2-6 (e) The presiding officer may serve as an ex officio member
 2-7 of any subcommittee.
 2-8 (f) The assistant presiding officer shall:
 2-9 (1) perform the duties of the presiding officer if the
 2-10 presiding officer is absent or becomes disabled; and
 2-11 (2) complete the unexpired portion of the presiding
 2-12 officer's term if the office of the presiding officer becomes
 2-13 vacant.
 2-14 (g) The committee may elect a committee member to replace
 2-15 the assistant presiding officer if the office of the assistant
 2-16 presiding officer becomes vacant.
 2-17 Sec. 85.276. MEETINGS. (a) The committee shall meet only
 2-18 as necessary to conduct committee business.
 2-19 (b) A meeting may be called by agreement between the
 2-20 department staff and:
 2-21 (1) the presiding officer; or
 2-22 (2) three or more members of the committee.
 2-23 (c) The department staff shall:
 2-24 (1) make meeting arrangements; and
 2-25 (2) contact each committee member to determine the
 2-26 member's availability for a meeting date and place.
 2-27 (d) The committee is not a "governmental body" as defined by
 2-28 Chapter 551, Government Code. However, each committee meeting must
 2-29 be announced and conducted in accordance with Chapter 551,
 2-30 Government Code, except that the provisions allowing executive
 2-31 sessions do not apply to the committee.
 2-32 (e) Each member of the committee must be informed of a
 2-33 committee meeting at least five working days before the meeting is
 2-34 to take place.
 2-35 (f) An agenda for each committee meeting must include an
 2-36 item entitled "public comment" under which any person may address
 2-37 the committee on matters relating to committee business. The
 2-38 presiding officer may establish procedures for public comment,
 2-39 including a time limit for each comment.
 2-40 Sec. 85.277. ATTENDANCE. (a) A member shall attend:
 2-41 (1) a scheduled committee meeting; and
 2-42 (2) a meeting of a subcommittee to which the member is
 2-43 assigned.
 2-44 (b) A member shall notify the presiding officer or the
 2-45 appropriate department staff if the member is unable to attend a
 2-46 scheduled meeting.
 2-47 (c) The committee shall include the attendance records of
 2-48 each member in the committee's annual report to the commissioner.
 2-49 The report must include a member's attendance at both committee and
 2-50 subcommittee meetings.
 2-51 Sec. 85.278. PROCEDURES. (a) The committee shall use
 2-52 Robert's Rules of Order as the basis of parliamentary decisions
 2-53 except as provided by other law or rule.
 2-54 (b) An action taken by the committee must be approved by a
 2-55 majority vote of the members present after a quorum is established.
 2-56 (c) Each member shall have one vote.
 2-57 (d) A member may not authorize another individual to
 2-58 represent the member by proxy.
 2-59 (e) The committee shall make decisions in the discharge of
 2-60 the committee's duties without discrimination based on a person's
 2-61 race, creed, gender, religion, national origin, age, physical
 2-62 condition, or economic status.
 2-63 (f) The department staff shall take minutes of each
 2-64 committee meeting. After the minutes are approved by the
 2-65 committee, the presiding officer shall sign the minutes.
 2-66 Sec. 85.279. SUBCOMMITTEES. (a) The committee may
 2-67 establish subcommittees as necessary to assist the committee in
 2-68 performing the committee's duties.
 2-69 (b) The presiding officer shall appoint committee members

3-1 to serve on subcommittees and to act as subcommittee chairs. The
 3-2 presiding officer may appoint a person who is not a committee member
 3-3 to serve on a subcommittee.

3-4 (c) A subcommittee shall meet when called by the
 3-5 subcommittee's chair or when directed by the committee.

3-6 (d) A subcommittee chair shall make a regular report to the
 3-7 committee at each committee meeting or in an interim written report
 3-8 as needed. The report must include an executive summary or minutes
 3-9 of each subcommittee meeting.

3-10 Sec. 85.280. STATEMENT BY MEMBER; MEMBER DUTIES. (a) The
 3-11 executive commissioner, the department, and the committee may not
 3-12 be bound by any statement made or action taken by a committee member
 3-13 unless the member makes the statement or takes the action based on
 3-14 specific instructions from the executive commissioner, the
 3-15 department, or the committee.

3-16 (b) The committee and committee members may not participate
 3-17 in any legislative activity in the name of the executive
 3-18 commissioner, the department, or the committee unless the committee
 3-19 or committee member obtains approval through the department's
 3-20 legislative process. Committee members may represent themselves or
 3-21 another entity in the legislative process.

3-22 (c) A committee member may not accept or solicit a benefit
 3-23 that might reasonably tend to influence the member in the discharge
 3-24 of the member's official duties.

3-25 (d) A committee member may not disclose confidential
 3-26 information acquired through the member's service on the committee.

3-27 (e) A committee member may not knowingly solicit, accept, or
 3-28 agree to accept a benefit for exercising the member's official
 3-29 powers or duties in favor of another person.

3-30 (f) A committee member who has a personal or private
 3-31 interest in a matter pending before the committee shall publicly
 3-32 disclose the fact and may not vote or otherwise participate in the
 3-33 matter.

3-34 (g) In this section, "personal or private interest" means a
 3-35 direct pecuniary interest in a matter but does not include a
 3-36 person's engagement in a profession, trade, or occupation if the
 3-37 person's interest is the same as any other person who is similarly
 3-38 engaged in the profession, trade, or occupation.

3-39 Sec. 85.281. COMPENSATION; EXPENSES. (a) A committee
 3-40 member may receive reimbursement for expenses incurred for each day
 3-41 the member engages in official committee business if the
 3-42 reimbursement is authorized by the General Appropriations Act or
 3-43 through the budget execution process.

3-44 (b) A committee member is not entitled to a salary or
 3-45 stipend unless required by law.

3-46 (c) A committee member who is an employee of a state agency,
 3-47 other than the department, is not entitled to reimbursement for
 3-48 expenses from the department.

3-49 (d) A person who serves on a subcommittee and who is not a
 3-50 committee member is not entitled to reimbursement for expenses from
 3-51 the department.

3-52 (e) Only a consumer who is diagnosed with HIV and serves as a
 3-53 committee member is eligible for reimbursement of actual travel
 3-54 expenses incurred.

3-55 (f) A committee member who is eligible for reimbursement of
 3-56 expenses shall submit to the department staff the member's receipts
 3-57 for the expenses and any required forms not later than 14 days after
 3-58 a committee meeting.

3-59 (g) A member shall make a request for reimbursement of
 3-60 expenses on an official state travel voucher prepared by the
 3-61 department staff.

3-62 Sec. 85.282. REPORTS. (a) The committee shall file an
 3-63 annual written report with the commissioner not later than March 31
 3-64 of each year. The report must cover the meetings and activities of
 3-65 the committee for the year preceding the date of the report.

3-66 (b) The report must include:

3-67 (1) the meeting dates of the committee and any
 3-68 subcommittee;

3-69 (2) attendance records for each committee member;

4-1 (3) a brief description of any action taken by the
4-2 committee;

4-3 (4) a description of how the committee has
4-4 accomplished any specific tasks officially given to the committee;

4-5 (5) the status of any rules recommended by the
4-6 committee; and

4-7 (6) the anticipated activities of the committee for
4-8 the following year.

4-9 (c) The committee shall identify the costs for the
4-10 committee's existence in the report, including the cost of
4-11 department staff used to support the committee's activities and the
4-12 source of funds used to support the committee's activities.

4-13 (d) The presiding officer and appropriate department staff
4-14 shall sign the report.

4-15 SECTION 2. Section 85.066, Health and Safety Code, is
4-16 repealed.

4-17 SECTION 3. (a) The executive commissioner of the Health and
4-18 Human Services Commission shall appoint the initial members of the
4-19 Texas HIV Medication Advisory Committee as provided by Section
4-20 85.272, Health and Safety Code, as added by this Act, as promptly as
4-21 possible after the effective date of this Act. The executive
4-22 commissioner may appoint, but is not required to appoint, initial
4-23 members to the committee who served on the advisory committee
4-24 previously established under Section 85.066, Health and Safety
4-25 Code, as repealed by this Act.

4-26 (b) The members of the Texas HIV Medication Advisory
4-27 Committee shall, at the first meeting of the committee, select a
4-28 presiding officer and an assistant presiding officer, and
4-29 notwithstanding Section 85.275(b), Health and Safety Code, as added
4-30 by this Act, the initial terms of those officers begin on the date
4-31 of selection.

4-32 SECTION 4. This Act takes effect immediately if it receives
4-33 a vote of two-thirds of all the members elected to each house, as
4-34 provided by Section 39, Article III, Texas Constitution. If this
4-35 Act does not receive the vote necessary for immediate effect, this
4-36 Act takes effect September 1, 2011.

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