

1-1 By: Eiland (Senate Sponsor - Whitmire) H.B. No. 3459
1-2 (In the Senate - Received from the House April 27, 2011;
1-3 May 3, 2011, read first time and referred to Committee on Criminal
1-4 Justice; May 19, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 May 19, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3459 By: Hinojosa

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

1-10 relating to the containment of costs incurred in the correctional
1-11 health care system.

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

1-13 SECTION 1. Subchapter C, Chapter 499, Government Code, is
1-14 amended by adding Section 499.055 to read as follows:

1-15 Sec. 499.055. POPULATION MANAGEMENT BASED ON INMATE HEALTH.
1-16 The department shall adopt policies designed to manage inmate
1-17 population based on similar health conditions suffered by inmates.
1-18 The policies adopted under this section must maximize
1-19 organizational efficiencies and reduce health care costs to the
1-20 department by housing inmates with similar health conditions in the
1-21 same unit or units that are, if possible, served by or located near
1-22 one or more specialty health care providers most likely to be needed
1-23 for the treatment of the health condition.

1-24 SECTION 2. Section 501.063, Government Code, is amended to
1-25 read as follows:

1-26 Sec. 501.063. ANNUAL INMATE FEE [COPAYMENTS] FOR [CERTAIN]
1-27 HEALTH CARE [VISITS]. (a) An inmate confined in a facility
1-28 operated by or under contract with the department, other than a
1-29 halfway house, ~~[who initiates a visit to a health care provider]~~
1-30 shall pay an annual health care services fee [make a copayment] to
1-31 the department in the amount of \$100 [\$3]. The inmate shall pay
1-32 [make] the annual fee [copayment] out of the inmate's trust fund.
1-33 If the balance in the fund is insufficient to cover the fee
1-34 [copayment], 50 percent of each deposit to the fund shall be applied
1-35 toward the balance owed until the total amount owed is paid.

1-36 (b) ~~[The department may not charge a copayment for health~~
1-37 ~~care:~~

1-38 ~~[(1) provided in response to a life-threatening or~~
1-39 ~~emergency situation affecting the inmate's health,~~

1-40 ~~[(2) initiated by the department,~~

1-41 ~~[(3) initiated by the health care provider or~~
1-42 ~~consisting of routine follow-up, prenatal, or chronic care, or~~

1-43 ~~[(4) provided under a contractual obligation that is~~
1-44 ~~established under the Interstate Corrections Compact or under an~~
1-45 ~~agreement with another state that precludes assessing a copayment.~~

1-46 ~~[(c)]~~ The department shall adopt policies to ensure that
1-47 before any deductions are made from an inmate's trust fund under
1-48 this section [an inmate initiates a visit to a health care
1-49 provider], the inmate is informed that the annual health care
1-50 services fee [a \$3 copayment] will be deducted from the inmate's
1-51 trust fund as required by Subsection (a).

1-52 (c) ~~[(d)]~~ The department may not deny an inmate access to
1-53 health care as a result of the inmate's failure or inability to pay
1-54 a fee under this section [make a copayment].

1-55 (d) ~~[(e)]~~ The department shall deposit money received under
1-56 this section in an account in the general revenue fund that may be
1-57 used only to pay the cost of administering this section. At the
1-58 beginning of each fiscal year, the comptroller shall transfer any
1-59 surplus from the preceding fiscal year to the state treasury to the
1-60 credit of the general revenue fund.

1-61 SECTION 3. Subchapter B, Chapter 501, Government Code, is
1-62 amended by adding Section 501.067 to read as follows:

1-63 Sec. 501.067. AVAILABILITY OF CERTAIN MEDICATION. (a) In

2-1 this section, "over-the-counter medication" means medication that
 2-2 may legally be sold and purchased without a prescription.

2-3 (b) The department shall make over-the-counter medication
 2-4 available for purchase by inmates in each inmate commissary
 2-5 operated by or under contract with the department.

2-6 (c) The department may not deny an inmate access to
 2-7 over-the-counter medications as a result of the inmate's inability
 2-8 to pay for the medication. The department shall pay for the cost of
 2-9 over-the-counter medication for inmates who are unable to pay for
 2-10 the medication out of the profits of inmate commissaries operated
 2-11 by or under contract with the department.

2-12 (d) The department may adopt policies concerning the sale
 2-13 and purchase of over-the-counter medication under this section as
 2-14 necessary to ensure the safety and security of inmates in the
 2-15 custody of, and employees of, the department, including policies
 2-16 concerning the quantities and types of over-the-counter medication
 2-17 that may be sold and purchased under this section.

2-18 SECTION 4. Subchapter E, Chapter 501, Government Code, is
 2-19 amended by adding Section 501.1485 to read as follows:

2-20 Sec. 501.1485. CORRECTIONS MEDICATION AIDES. (a) The
 2-21 department, in cooperation with The University of Texas Medical
 2-22 Branch at Galveston and the Texas Tech University Health Sciences
 2-23 Center, shall develop and implement a training program for
 2-24 corrections medication aides that uses a curriculum specific to
 2-25 administering medication in a correctional setting.

2-26 (b) In developing the curriculum for the training program,
 2-27 the department, The University of Texas Medical Branch at
 2-28 Galveston, and the Texas Tech University Health Sciences Center
 2-29 shall:

2-30 (1) consider the content of the curriculum developed
 2-31 by the American Correctional Association for certified corrections
 2-32 nurses; and

2-33 (2) modify as appropriate the content of the
 2-34 curriculum developed under Chapter 242, Health and Safety Code, for
 2-35 medication aides administering medication in convalescent and
 2-36 nursing homes and related institutions to produce content suitable
 2-37 for administering medication in a correctional setting.

2-38 (c) The department shall submit an application for the
 2-39 approval of a training program developed under this section,
 2-40 including the curriculum, to the Department of Aging and Disability
 2-41 Services in the manner established by the executive commissioner of
 2-42 the Health and Human Services Commission under Section 161.082,
 2-43 Human Resources Code.

2-44 SECTION 5. Section 251.012, Health and Safety Code, as
 2-45 amended by Chapters 839 (S.B. 1932) and 1280 (H.B. 1831), Acts of
 2-46 the 81st Legislature, Regular Session, 2009, is reenacted and
 2-47 amended to read as follows:

2-48 Sec. 251.012. EXEMPTIONS FROM LICENSING REQUIREMENT. The
 2-49 following facilities are not required to be licensed under this
 2-50 chapter:

2-51 (1) a home and community support services agency
 2-52 licensed under Chapter 142 with a home dialysis designation;

2-53 (2) a hospital licensed under Chapter 241 that
 2-54 provides dialysis only to individuals receiving:

2-55 (A) ~~individuals receiving~~ inpatient services
 2-56 from the hospital; or

2-57 (B) ~~individuals receiving~~ outpatient services
 2-58 due to a disaster declared by the governor or a federal disaster
 2-59 declared by the president of the United States occurring in this
 2-60 state or another state during the term of the disaster declaration;
 2-61 ~~or~~

2-62 (3) a hospital operated by or on behalf of the state as
 2-63 part of the managed health care provider network established under
 2-64 Chapter 501, Government Code, that provides dialysis only to
 2-65 individuals receiving:

2-66 (A) inpatient services from the hospital; or

2-67 (B) outpatient services while serving a term of
 2-68 confinement in a facility operated by or under contract with the
 2-69 Texas Department of Criminal Justice;

3-1 (4) an end stage renal disease facility operated by or
3-2 on behalf of the state as part of the managed health care provider
3-3 network established under Chapter 501, Government Code, that
3-4 provides dialysis only to individuals receiving those services
3-5 while serving a term of confinement in a facility operated by or
3-6 under contract with the Texas Department of Criminal Justice; or

3-7 (5) the office of a physician unless the office is used
3-8 primarily as an end stage renal disease facility.

3-9 SECTION 6. Subchapter D, Chapter 161, Human Resources Code,
3-10 is amended by adding Section 161.082 to read as follows:

3-11 Sec. 161.082. CORRECTIONS MEDICATION AIDES. (a) The
3-12 executive commissioner shall establish:

3-13 (1) minimum standards and procedures for the approval
3-14 of corrections medication aide training programs, including
3-15 curricula, developed under Section 501.1485, Government Code;

3-16 (2) minimum requirements for the issuance, denial,
3-17 renewal, suspension, and revocation of a permit to a corrections
3-18 medication aide, including the payment of an application or renewal
3-19 fee in an amount necessary to cover the costs incurred by the
3-20 department in administering this section; and

3-21 (3) the acts and practices that are within and outside
3-22 the scope of a permit issued under this section.

3-23 (b) Not later than the 90th day after receipt of an
3-24 application for approval of a corrections medication aide training
3-25 program developed under Section 501.1485, Government Code, the
3-26 department shall:

3-27 (1) approve the program, if the program meets the
3-28 minimum standards and procedures established under Subsection
3-29 (a)(1); or

3-30 (2) provide notice to the Texas Department of Criminal
3-31 Justice that the program is not approved and include in the notice a
3-32 description of the actions that are required for the program to be
3-33 approved.

3-34 (c) The department shall issue a permit to or renew the
3-35 permit of an applicant who meets the minimum requirements
3-36 established under Subsection (a)(2). The department shall
3-37 coordinate with the Texas Department of Criminal Justice in the
3-38 performance of the department's duties and functions under this
3-39 subsection.

3-40 SECTION 7. (a) The Texas Department of Criminal Justice,
3-41 in cooperation with The University of Texas Medical Branch at
3-42 Galveston, the Texas Tech University Health Sciences Center, or a
3-43 successor correctional managed health care provider, shall develop
3-44 the training program required by Section 501.1485, Government Code,
3-45 as added by this Act, and the department shall submit an application
3-46 for approval of that program, as required by Subsection (c) of that
3-47 section, not later than January 1, 2012. If after the effective date
3-48 of this Act and before the date the department develops the training
3-49 program described by this subsection The University of Texas
3-50 Medical Branch at Galveston and the Texas Tech University Health
3-51 Sciences Center are no longer represented on the Correctional
3-52 Managed Health Care Committee, or no longer serve as correctional
3-53 managed health care providers, the executive director of the
3-54 department shall request and receive the cooperation of any other
3-55 state agency determined by the executive director to be an
3-56 appropriate resource in the development of the program.

3-57 (b) The change in law made by this Act in amending Section
3-58 251.012, Health and Safety Code, applies only to dialysis services
3-59 provided on or after the effective date of this Act. Dialysis
3-60 services provided before the effective date of this Act are covered
3-61 by the law in effect immediately before that date, and the former
3-62 law is continued in effect for that purpose.

3-63 (c) The executive commissioner of the Health and Human
3-64 Services Commission shall establish the minimum standards and
3-65 requirements and the acts and practices allowed or prohibited, as
3-66 required by Section 161.082, Human Resources Code, as added by this
3-67 Act, not later than January 1, 2012.

3-68 SECTION 8. To the extent of any conflict, this Act prevails
3-69 over another Act of the 82nd Legislature, Regular Session, 2011,

4-1 relating to nonsubstantive additions to and corrections in enacted
4-2 codes.

4-3 SECTION 9. This Act takes effect September 1, 2011.

4-4 * * * * *