

House Bill 3459
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

No equivalent provision.

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.

No equivalent provision.

SECTION 2. Section 501.063, Government Code, is amended to read as follows:
Sec. 501.063. ANNUAL INMATE FEE [COPAYMENTS] FOR [CERTAIN] HEALTH CARE [VISITS]. (a) 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 an annual health care services fee [make a copayment] to the department in the amount of \$100 [\$3]. The inmate shall pay [make] the annual fee [copayment] out of the inmate's trust fund. If the balance in the fund is insufficient to cover the fee [copayment], 50 percent of each deposit to the fund shall be applied toward the balance owed until the total amount owed is paid.
(b) ~~[The department may not charge a copayment for health care:~~
~~[(1) provided in response to a life-threatening or emergency situation affecting the inmate's health;~~
~~[(2) initiated by the department;~~

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

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

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

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

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

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

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

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

No equivalent provision.

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

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

SECTION 1. Subchapter E, Chapter 501, Government Code, is amended by adding Section 501.1485 to read as follows:

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

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

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

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(2) modify as appropriate the content of the curriculum developed under Chapter 242, Health and Safety Code, for medication aides administering medication in convalescent and nursing homes and related institutions to produce content suitable for administering medication in a correctional setting.
(c) The department shall submit an application for the approval of a training program developed under this section, including the curriculum, to the Department of Aging and Disability Services in the manner established by the executive commissioner of the Health and Human Services Commission under Section 161.082, Human Resources Code.

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

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

- (1) a home and community support services agency licensed under Chapter 142 with a home dialysis designation;
- (2) a hospital licensed under Chapter 241 that provides dialysis only to individuals receiving:
 - (A) [~~individuals receiving~~] inpatient services from the hospital; or
 - (B) [~~individuals receiving~~] outpatient services due to a disaster declared by the governor or a federal disaster declared by the president of the United States occurring in this state or another state during the term of the disaster declaration; [~~or~~]
- (3) a hospital operated by or on behalf of the state as part of the managed health care provider network established under

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

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

- (1) a home and community support services agency licensed under Chapter 142 with a home dialysis designation;
- (2) a hospital licensed under Chapter 241 that provides dialysis only to individuals receiving:
 - (A) [~~individuals receiving~~] inpatient services from the hospital; or
 - (B) [~~individuals receiving~~] outpatient services due to a disaster declared by the governor or a federal disaster declared by the president of the United States occurring in this state or another state during the term of the disaster declaration; [~~or~~]
- (3) a hospital operated by or on behalf of the state as part of the managed health care provider network established under

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Chapter 501, Government Code, that provides dialysis only to individuals receiving:

(A) inpatient services from the hospital; or

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

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

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

Sec. 161.082. CORRECTIONS MEDICATION AIDES. (a) The executive commissioner shall establish:

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

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

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Chapter 501, Government Code, that provides dialysis only to individuals receiving:

(A) inpatient services from the hospital; or

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

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

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

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

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

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

or

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

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

SECTION 4. (a) The Texas Department of Criminal Justice, in cooperation with The University of Texas Medical Branch at Galveston, the Texas Tech University Health Sciences Center, or a successor correctional managed health care provider, shall develop the training program required by Section 501.1485, Government Code, as added by this Act, and the department shall submit an application for approval of that program, as required by Subsection (c) of that section, not later than January 1, 2012. If after the effective date of this Act and before the date the department develops the training program described by this subsection The University of Texas

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Medical Branch at Galveston and the Texas Tech University Health Sciences Center are no longer represented on the Correctional Managed Health Care Committee, or no longer serve as correctional managed health care providers, the executive director of the department shall request and receive the cooperation of any other state agency determined by the executive director to be an appropriate resource in the development of the program.

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

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

SECTION 5. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 6. This Act takes effect September 1, 2011.

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SECTION 8. Same as House version.

SECTION 9. Same as House version.

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