

By: Gonzales

H.B. No. 1005

A BILL TO BE ENTITLED

AN ACT

relating to the certification of day habilitation services providers for individuals with intellectual disabilities.

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

SECTION 1. The purpose of this Act is to ensure that day habilitation services providers provide high-quality services.

SECTION 2. Chapter 161, Human Resources Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. DAY HABILITATION SERVICES PROVIDERS

Sec. 161.401. DEFINITIONS. In this subchapter:

(1) "Active treatment" means a continuous, aggressive, consistent implementation of a program of habilitation, including specialized and generic training, treatment, health services, and related services. Active treatment does not include services to maintain generally independent individuals who are able to function with little supervision or in the absence of a continuous active treatment program.

(2) "Client" means a person receiving services from a waiver provider or a facility.

(3) "Day habilitation services" means an active treatment provided by a waiver provider on a regularly scheduled basis primarily to individuals with an intellectual disability or a related condition.

(4) "Day habilitation services site" means a location

1 at which a waiver provider provides day habilitation services.

2 (5) "Facility" means an intermediate care facility for
3 individuals with an intellectual disability or a related condition
4 that is licensed under Chapter 252, Health and Safety Code, or that
5 is operated by or contracts with the department.

6 (6) "Intellectual disability" has the meaning
7 assigned by Section 591.003, Health and Safety Code.

8 (7) "Related condition" means a severe and chronic
9 disability that:

10 (A) is attributed to:

11 (i) cerebral palsy or epilepsy; or

12 (ii) any other condition, other than mental
13 illness, found to be closely related to intellectual disability
14 because the condition results in impairment of general intellectual
15 functioning or adaptive behavior similar to that of individuals
16 with intellectual disability, and requires treatment or services
17 similar to those required for individuals with intellectual
18 disability;

19 (B) is manifested before the individual reaches
20 22 years of age;

21 (C) is likely to continue indefinitely; and

22 (D) results in substantial functional limitation
23 in at least three of the following areas of major life activity:

24 (i) self-care;

25 (ii) understanding and use of language;

26 (iii) learning;

27 (iv) mobility;

1 (v) self-direction; and

2 (vi) capacity for independent living.

3 (8) "Waiver provider" means a person who contracts
4 with the department to provide federally funded Medicaid day
5 habilitation services authorized under Section 1915(c) of the
6 federal Social Security Act (42 U.S.C. Section 1396n(c)).

7 Sec. 161.402. DEPARTMENT DUTIES. The department shall
8 adopt rules for implementing this subchapter and set standards for:

9 (1) the health and welfare of clients receiving day
10 habilitation services;

11 (2) the quality of day habilitation services provided
12 by a waiver provider;

13 (3) the adequate supervision of clients receiving day
14 habilitation services;

15 (4) the qualifications of waiver provider staff
16 providing day habilitation services; and

17 (5) the requirements to be a day habilitation services
18 site.

19 Sec. 161.403. CERTIFICATION REQUIRED FOR WAIVER PROVIDERS.

20 (a) The department may not pay a waiver provider for day
21 habilitation services unless the waiver provider is:

22 (1) certified by the department as a day habilitation
23 services provider under this subchapter; or

24 (2) licensed by the department as an adult day-care
25 facility under Chapter 103.

26 (b) A facility may not contract with a waiver provider to
27 provide day habilitation services unless the waiver provider is:

1 (1) certified by the department as a day habilitation
2 services provider under this subchapter; or

3 (2) licensed by the department as an adult day-care
4 facility under Chapter 103.

5 Sec. 161.404. CERTIFICATION REQUIREMENTS. (a) The
6 department shall certify a waiver provider who meets the
7 requirements prescribed by this subchapter as a day habilitation
8 services provider.

9 (b) A waiver provider must obtain a separate certification
10 for each day habilitation services site.

11 (c) A certification expires on the second anniversary of the
12 date of issuance.

13 (d) The department shall adopt rules for procedures and
14 standards for certification of day habilitation services
15 providers.

16 Sec. 161.405. CERTIFICATION APPLICATION. (a) An applicant
17 for certification as a day habilitation services provider must file
18 an application on a form prescribed by the department together with
19 a certification fee of \$50.

20 (b) The applicant must provide evidence of the ability to
21 comply with the requirements of the department.

22 (c) A waiver provider who is certified as a day habilitation
23 services provider under this subchapter must file an application
24 for renewal certification not later than the 60th day before the
25 expiration date of the certification on a form prescribed by the
26 department together with a renewal fee of \$50.

27 (d) An applicant for certification renewal who submits an

1 application later than the 60th day before the expiration date of
2 the certification is subject to a late fee in accordance with
3 department rules.

4 Sec. 161.406. REVIEWS AND COMPLAINTS. (a) The department
5 may enter the premises of a day habilitation services site at
6 reasonable times to conduct a review necessary to certify a waiver
7 provider, renew a certification, or address a complaint, or to
8 follow up on the death of a client or the observations, findings, or
9 recommendations of the Department of Family and Protective Services
10 resulting from an allegation of abuse, neglect, or exploitation.

11 (b) Any person may file with the department a complaint
12 about a day habilitation services provider or a day habilitation
13 services site, including a complaint relating to an alleged
14 violation of a certification requirement. The department shall
15 address the complaint and determine actions necessary to resolve
16 the complaint.

17 Sec. 161.407. CERTIFICATION DENIAL, SUSPENSION, OR
18 REVOCAION. (a) The department may deny, suspend, or revoke the
19 certification of an applicant or holder of a certification who
20 fails to comply with the rules or standards for certification
21 required by this subchapter or adopted by the department.

22 (b) The denial, suspension, or revocation of a
23 certification and the appeal from that action are governed by the
24 procedures for a contested case hearing under Chapter 2001,
25 Government Code.

26 Sec. 161.408. DISPOSITION OF FUNDS. All money collected
27 under this subchapter shall be deposited to the credit of a special

1 account in the general revenue fund and may be appropriated only to
2 the department for the purpose of administering this subchapter,
3 including conducting reviews under Section 161.406.

4 SECTION 3. Section 253.001(4), Health and Safety Code, is
5 amended to read as follows:

6 (4) "Facility" means:

7 (A) a facility:

8 (i) licensed by the department; ~~or~~

9 (ii) licensed under Chapter 252; or

10 (iii) that is a day habilitation services
11 site of a day habilitation services provider certified under
12 Subchapter J, Chapter 161, Human Resources Code;

13 (B) an adult foster care provider that contracts
14 with the department; or

15 (C) a home and community support services agency
16 licensed by the department under Chapter 142.

17 SECTION 4. (a) Not later than June 1, 2015, the executive
18 commissioner of the Health and Human Services Commission shall
19 adopt the rules required by Subchapter J, Chapter 161, Human
20 Resources Code, as added by this Act.

21 (b) A day habilitation services provider that is subject to
22 Subchapter J, Chapter 161, Human Resources Code, as added by this
23 Act, is not required to be certified by the Department of Aging and
24 Disability Services as required by that subchapter until July 1,
25 2015.

26 SECTION 5. This Act takes effect September 1, 2014.