BILL ANALYSIS

Senate Research Center

S.B. 760
By: Schwertner et al.
Health & Human Services
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A total of 82 percent of individuals enrolled in the Texas Medicaid program are served through contracts with managed care organizations totaling around $12 billion annually. Providing access to care through adequate provider networks is one of the most important functions of these state contractors.

S.B. 760 provides the Health and Human Services Commission (HHSC) the tools necessary to adequately monitor these contracts and ensure that managed care organizations are being held accountable for delivering suitable care.

S.B. 760 amends current law relating to provider access and assignment requirements for, support and information regarding, and investigations of certain providers of health care and long-term services.

[**Note:** While the statutory reference in this bill is to the Department of Protective and Regulatory Services (DPRS), the following amendments affect the Department of Family and Protective Services, as the successor agency to DPRS.]

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission (HHSC) is modified in SECTION 2 (Section 261.404, Family Code, as amended by S.B. 219, 84th Legislature, Regular Session, 2015) of this bill.

Rulemaking authority is expressly granted to executive commissioner of HHSC in SECTION 16 (Sections 48.251, 48.253, and 48.256, Human Resources Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of HHSC is rescinded in SECTION 16 (Sections 48.252 and 48.255, Human Resources Code) of this bill.

Rulemaking authority previously granted to the Department of Family and Protective Services is transferred to the executive director of HHSC in SECTION 16 (Section 48.254, Human Resources Code) of this bill.

Rulemaking authority previously granted to the executive director of HHSC is modified in SECTION 16 (Section 480.255, Human Resources Code) of this bill.

Rulemaking authority previously granted to the Department of Family and Protective Services, the Department of Aging and Disability Services, and the Department of State Health Services is rescinded in SECTION 16 (Section 48.255, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 261.404, Family Code, as amended by S.B. 219, 84th Legislature, Regular Session, 2015, to read as follows:

> Sec. 261.404. INVESTIGATIONS REGARDING CERTAIN CHILDREN RECEIVING SERVICES FROM CERTAIN PROVIDERS

SECTION 2. Amends Section 261.404, Family Code, as amended by S.B. 219, 84th Legislature, Regular Session, 2015, by amending Subsections (a) and (b) and adding Subsections (a-1), (a-2), and (a-3), as follows:

(a) Requires the Department of Protective and Regulatory Services (DPRS) to investigate a report of abuse, neglect, or exploitation of a child receiving services from a provider, as those terms are defined by Section 48.251 (Definitions), Human Resources Code, or as otherwise defined by rule. Requires DPRS to also investigate, under Subchapter F (Investigations In Certain Facilities, Community Centers, and Local Mental Health and Mental Retardation Authorities), Chapter 48 (Investigations and Protective Services for Elderly and Disabled Persons), Human Resources Code, a report of abuse, neglect, or exploitation of a child receiving services from an officer, employee, agent, contractor, or subcontractor of a home and community support services agency licensed under Chapter 142 (Home and Community Support Services), Health and Safety Code, if the officer, employee, agent, contractor, or subcontractor is or may be the person alleged to have committed the abuse, neglect, or exploitation.

Deletes existing text requiring DPRS to investigate a report of abuse, neglect, or exploitation of a child receiving services in a facility operated by the Department of Aging and Disability Services (DADS) or a mental health facility operated by the Department of State Health Services (DSHS); in or from a community center, a local mental health authority, or a local intellectual and developmental disability authority; through a program providing services to that child by contract with a facility operated by DADS, a mental health facility operated by DSHS, a community center, a local mental health authority, or a local intellectual and developmental disability authority; from a provider of home and community-based services who contracts DADS; or in a facility licensed under Chapter 252 (Intermediate Care Facilities for the Mentally Retarded), Health and Safety Code.

(a-1) Authorizes DPRS, in accordance with Subchapter E (Provision of Services; Emergency Protections), Chapter 48, Human Resources Code, to provide emergency protective services necessary to immediately protect the child from serious physical harm or death and, if necessary, obtain an emergency order for protective services under Section 48.208 (Emergency Order for Protective Services), Human Resources Code, for an investigation of a child living in a residence owned, operated, or controlled by a provider of services under the home and community-based services waiver program described by Section 534.001(11)(B) (defining "Medicaid waiver program"), Government Code.

(a-2) Requires DPRS to provide protective services to a child in accordance with Subchapter E, Chapter 48, Human Resources Code, for an investigation of a child living in a residence owned, operated, or controlled by a provider of services under the home and community-based services waiver program described by Section 534.001(11)(B), Government Code, regardless of whether the child is receiving services under that waiver program from the provider.

(a-3) Provides that for the purposes of this section, Subchapters E and F, Chapter 48, Human Resources Code, apply to an investigation of a child and to the provision of protective services to that child in the same manner those subchapters apply to an investigation of an elderly person or person with a disability and the provision of protective services to that person.

(b) Requires DPRS to investigate the report under rules developed by the executive commissioner, rather than under rules developed by the executive commissioner with the advice and assistance of DPRS, DADS, and DSHS.

SECTION 3. Amends Section 531.0213, Government Code, by adding Subsections (b-1) and (e), amending Subsection (c), and amending Subsection (d), as amended by S.B. 219, 84th Legislature, Regular Session, 2015, as follows:

(b-1) Requires the Health and Human Services Commission (HHSC) to provide support and information services required by this section through a network of entities coordinated by the commission's office of the ombudsman or other division of the commission designated by the executive commissioner of HHSC (executive commissioner) and composed of:

(1) the commission's office of the ombudsman or other division of the commission designated by the executive commissioner to coordinate the network;

(2) the office of the state long-term care ombudsman required under Subchapter F (Office of Long-Term Care Ombudsman), Chapter 101A (State Services for the Aging), Human Resources Code;

(3) the division within the commission responsible for oversight of Medicaid managed care contracts;

(4) area agencies on aging;

(5) aging and disability resource centers established under the Aging and Disability Resource Center initiative funded in part by the federal Administration on Aging and the Centers for Medicare and Medicaid Services; and

(6) any other entity the executive commissioner determines appropriate, including nonprofit organizations with which the commission contracts under Subsection (c).

(c) Makes a nonsubstantive change.

(d) Requires HHSC, rather than HHSC or a nonprofit organization, as a part of the support and information services required by this section, to:

(1) operate a statewide toll-free assistance telephone number that includes relay services for persons with speech or hearing disabilities, rather than TDD lines, and assistance for persons who speak Spanish;

(2)-(4) Makes no change to these subdivisions;

(5) and (6) Makes a nonsubstantive changes;

(7) meet the needs of all current and future Medicaid managed care recipients, including children receiving dental benefits and other recipients receiving benefits, under the:

(A) STAR Medicaid managed care program;

(B) STAR + PLUS Medicaid managed care program, including the Texas Dual Eligibles Integrated Care Demonstration Project provided under that program;

(C) STAR Kids managed care program established under Section 533.00253 (Star Kids Medicaid Managed Care Program); and

(D) STAR Health program;

(8) incorporate support services for children enrolled in the child health plan established under Chapter 62 (Child Health Plan for Certain Low-Income Children), Health and Safety Code; and

(9) ensure that staff providing support and information services receives sufficient training, including training in the Medicare program for the purpose of

assisting recipients who are dually eligible for Medicare and Medicaid, and has sufficient authority to resolve barriers experienced by recipients to health care and long-term services and supports.

(e) Requires HHSC's office of the ombudsman, or other division of HHSC designated by the executive commissioner to coordinate the network of entities responsible for providing support and information services under this section, to be sufficiently independent from other aspects of Medicaid managed care to represent the best interests of recipients in problem resolution.

SECTION 4. Amends Section 533.005(a), Government Code, as amended by S.B. 219, 84th Legislature, Regular Session, as follows:

(a) Requires that a contract between a managed care organization and HHSC for the organization to provide health care services to recipients contain:

(1)-(19) Makes no change to these subdivisions;

(20) a requirement that the managed care organization:

(A) develop and submit to HHSC before the organization begins to provide health care services to recipients, a comprehensive plan that describes how the organization's provider network complies with the provider access standards established under Section 533.0061;

(B) as a condition of contract retention and renewal:

(i) continue to comply with the provider access standards established under Section 533.0061; and

(ii) make substantial efforts, as determined by HHSC, to mitigate or remedy any noncompliance with the provider access standards established under Section 533.0061;

(C) pay liquidated damages for each failure, as determined by HHSC, to comply with the provider access standards established under Section 533.0061 in amounts that are reasonably related to the noncompliance; and

(D) regularly, as determined by HHSC, submit to HHSC and make available to the public a report containing data on the sufficiency of the organization's provider network with regard to providing the care and services described under Section 533.0061(a), rather than with respect to Paragraph (A), and specific data with respect to access to primary care, specialty care, long-term services and supports, nursing services, and therapy services, rather than with respect to Paragraphs (A)(iii), (vi), (vii), and (viii), on the average length of time between:

(i) the date a provider requests prior authorization, rather than makes a referral, for the care or service and the date the organization approves or denies the request, rather than referral; and

(ii) the date the organization approves a request for prior authorization, rather than a referral, for the care or service and the date the care or service is initiated.

(21) a requirement that the managed care organization demonstrate to HHSC, before the organization begins to provide health care services to recipients, that, subject to the provider access standards established under Section 533.0061:

(A)-(C) Makes no change to these paragraphs;

(22) and (23) makes no change to these subdivisions; and

(24) and (25) makes nonsubstantive changes to these subdivisions; and

(26) a requirement that the managed care organization make initial and subsequent primary care provider assignments and changes.

Deletes text of existing Subdivision (20)(A) providing that the comprehensive plan describe how the managed care organization's provider network will provide recipients sufficient access to preventive care, primary care, specialty care, after-hours urgent care, chronic care, long-term services and supports, nursing services, and therapy services, including services provided in a clinical setting or in a home or community-based setting.

SECTION 5. Amends Subchapter A, Chapter 533, Government Code, by adding Sections 533.0061, 533.0062, 533.0063, and 533.0064, as follows:

Sec. 533.0061. PROVIDER ACCESS STANDARDS; REPORT. (a) Requires HHSC to establish minimum provider access standards for the provider network of a managed care organization that contracts with HHSC to provide health care services to recipients. Requires that the access standards ensure that a managed care organization provides recipients sufficient access to:

(1) preventive care;

(2) primary care;

(3) specialty care;

(4) after-hours urgent care;

(5) chronic care;

(6) long-term services and supports;

(7) nursing services;

(8) therapy services, including services provided in a clinical setting or in a home or community-based setting; and

(9) any other services identified by HHSC.

(b) Requires that the provider access standards established under this section, to the extent it is feasible:

(1) distinguish between access to providers in urban and rural settings; and

(2) consider the number and geographic distribution of Medicaid-enrolled providers in a particular service delivery area.

(c) Requires HHSC to biennially submit to the legislature and make available to the public a report containing information and statistics about recipient access to providers through the provider networks of the managed care organizations and managed care organization compliance with contractual obligations related to provider access standards established under this section. Requires that the report contain:

(1) a compilation and analysis of information submitted to HHSC under Section 533.005(a)(20)(D);

(2) for both primary care providers and specialty providers, information on provider-to-recipient ratios in an organization's provider network, as well as benchmark ratios to indicate whether deficiencies exist in a given network; and

(3) a description of, and analysis of the results from, HHSC's monitoring process established under Section 533.007(1).

Sec. 533.0062. PENALTIES AND OTHER REMEDIES FOR FAILURE TO COMPLY WITH PROVIDER ACCESS STANDARDS. Provides that, if a managed care organization that has contracted with HHSC to provide health care services to recipients fails to comply with one or more provider access standards established under Section 533.0061 and HHSC determines the organization has not made substantial efforts to mitigate or remedy the noncompliance, HHSC:

(1) may:

(A) elect to not retain or renew HHSC's contract with the organization; or

(B) require the organization to pay liquidated damages in accordance with Section 533.005(a)(20)(C); and

(2) shall suspend default enrollment to the organization in a given service delivery area for at least one calendar quarter if the organization's noncompliance occurs in the service delivery area for two consecutive calendar quarters.

Sec. 533.0063. PROVIDER NETWORK DIRECTORIES. (a) Requires HHSC to ensure that a managed care organization that contracts with HHSC to provide health care services to recipients:

(1) posts on the organization's Internet website:

(A) the organization's provider network directory; and

(B) a direct telephone number and e-mail address through which a recipient enrolled in the organization's managed care plan or the recipient's provider may contact the organization to receive assistance with:

(i) identifying in-network providers and services available to the recipient; and

(ii) scheduling an appointment for the recipient with an available in-network provider or to access available in-network services; and

(2) updates the online directory required under Subdivision (1)(A) at least monthly.

(b) Requires a managed care organization, except as provided by Subsection (c), to send a paper form of the organization's provider network directory for the program only to a recipient who requests to receive the directory in paper form.

(c) Requires a managed care organization participating in the STAR + PLUS Medicaid managed care program or STAR Kids Medicaid managed care program established under Section 533.00325 to, for a recipient in that program, issue a provider network directory for the program in paper form unless the recipient opts out of receiving the directory in paper form.

Sec. 533.0064. EXPEDITED CREDENTIALING PROCESS FOR CERTAIN PROVIDERS. (a) Redefines "applicant provider" to mean a physician or other health care provider applying for expedited credentialing under this section.

(b) Requires a managed care organization that contracts with HHSC, notwithstanding any other law and subject to Subsection (c), to provide health services to recipients to, in accordance with this section, establish and implement an expedited credentialing process that would allow applicant providers to provide services to recipients on a provisional basis.

(c) Requires HHSC to identify the types of providers for which an expedited credentialing process must be established and implemented under this section.

(d) Requires an applicant provider, to qualify for expedited credentialing under this section and payment under Subsection (e), to meet the criteria set forth in this subsection.

(e) Requires the organization, on submission by the applicant provider of the information required by the managed care organization under Subsection (d), and for Medicaid reimbursement purposes only, to treat the provider as if the provider were in the organization's provider network when the provider provides services to recipients, subject to Subsections (f) and (g).

(f) Authorizes the organization to recover from the provider the difference between payments for in-network benefits and out-of-network benefits, except as provided by Subsection (g), if, on completion of the credentialing process, a managed care organization determines that the applicant provider does not meet the organization's credentialing requirements.

(g) Authorizes the organization to recover from the provider the entire amount of any payment paid to the provider if a managed care organization determines on completion of the credentialing process that the applicant provider does not meet the organization's credentialing requirements and that the provider made fraudulent claims in the provider's application for credentialing.

SECTION 6. Amends Section 533.007, Government Code, by adding Subsection (l), as follows:

(l) Requires HHSC to establish and implement a process for the direct monitoring of a managed care organization's provider network and providers in the network. Provides that the process:

(1) must be used to ensure compliance with contractual obligations related to:

(A) the number of providers accepting new patients under the Medicaid managed care program; and

(B) the length of time a recipient must wait between scheduling an appointment with a provider and receiving treatment from the provider;

(2) may use reasonable methods to ensure compliance with contractual obligations, including telephone calls made at random times without notice to assess the availability of providers and services to new and existing recipients; and

(3) may be implemented directly by HHSC or through a contractor.

SECTION 7. Amends Section 142.009(c), Health and Safety Code, to delete text authorizing DADS or its authorized representative to interview certain persons or survey certain properties during an investigation regarding an allegation of abuse, neglect, or exploitation of a child under the age of 18.

SECTION 8. Amends Section 260A.002, Health and Safety Code, by adding Subsection (a-1) to read as follows:

(a-1) Requires that a report made under this section that a provider is or may be alleged to have committed abuse, neglect, or exploitation of a resident of a facility other than a prescribed pediatric extended care center, notwithstanding any other provision of this chapter, be investigated by DPRS in accordance with Subchapter F, Chapter 48, Human Resources Code, and this chapter does not apply to that investigation. Defines "facility" and "provider."

SECTION 9. Section 48.002(a), Human Resources Code, is amended by adding Subdivision (11) to define "home and community-based services."

SECTION 10. Amends Section 48.002(b), Human Resources Code, as amended by S.B. 219, 84th Legislature, Regular Session, 2015, as follows:

(b) Provides that the definitions of "abuse," "neglect," "exploitation," and "an individual receiving services" adopted by the executive commissioner of HHSC (executive commissioner) as prescribed by Section 48.251(b) (relating to requiring DPRS by rule to adopt definitions of "abuse," "neglect," " and "exploitation to govern an investigation) apply to an investigation of abuse, neglect, or exploitation conducted under Subchapter F.

Deletes existing text providing that the definitions of "abuse," "neglect," and "exploitation" adopted by the executive commissioner as prescribed by Section 48.251, apply to an investigation of abuse, neglect, or exploitation conducted under Subchapter F or H (Investigations of Providers of Home and Community-Based Services Contracting With TDMHMR).

SECTION 11. Amends Section 48.003, Human Resources Code, is amended to read as follows:

Sec. 48.003. New heading: INVESTIGATIONS IN NURSING FACILITIES, ASSISTED LIVING FACILITIES, AND SIMILAR FACILITIES. (a) Provides that, except as provided by Subsection (c), this chapter does not apply if the alleged or suspected abuse, neglect, or exploitation occurs in a facility licensed under Chapter 242 (Convalescent and Nursing Homes and Related Institutions) or 247 (Assisted Living Facilities), Health and Safety Code. Makes a nonsubstantive change.

(b) Provides that alleged or suspected abuse, neglect, or exploitation that occurs in a facility licensed under Chapter 242 or 247, Health and Safety Code, is governed by Chapter 260A (Reports of Abuse, Neglect, and Exploitation of Residents of Certain Facilities), Health and Safety Code, except as otherwise provided by Subsection (c).

(c) Provides that Subchapter F applies to an investigation of alleged or suspected abuse, neglect, or exploitation in which a provider of home and community-based services is or may be alleged to have committed the abuse, neglect, or exploitation, regardless of whether the facility in which those services were provided is licensed under Chapter 242 or 247, Health and Safety Code.

SECTION 12. Amends Sections 48.051(a) and (b), Human Resources Code, as amended by S.B. 219, 84th Legislature, Regular Session, 2015, as follows:

(a) Requires a person having cause to believe that an elderly person, a person with a disability, or an individual receiving services from a provider as described by Subchapter F is in the state of abuse, neglect, or exploitation, except as prescribed by Subsection (b), to report the information required by Subsection (d) immediately to DPRS.

Deletes existing text requiring a person having cause to believe that an elderly person or a person with a disability is in the state of abuse, neglect, or exploitation, including a person with a disability who is receiving services as described by Section 48.252 (Investigation of Reports In Certain Facilities and In Certain Community Centers), to report the information required by Subsection (d) immediately to DPRS, except as prescribed by Subsection (b).

(b) Requires a person who has cause to believe that an elderly person or a person with a disability, other than an individual receiving services from a provider as described by Subchapter F, rather than Section 48.252, has been abused, neglected, or exploited in a facility operated, licensed, certified, or registered by a state agency, to report the information to the state agency that operates, licenses, certifies, or registers the facility for investigation by that agency. Makes nonsubstantive changes.

SECTION 13. Amends Section 48.103, Human Resources Code, by amending Subsection (a), as amended by S.B. 219, 84th Legislature, Regular Session, 2015, and adding Subsection (c), as follows:

(a) Provides for an exception under Subsection (c) to the requirement that an employee of a home and community support services agency licensed under Chapter 142 (Home and Community Support Services), Health and Safety Code, notify the state agency responsible for licensing the home and community support services agency of DPRS's determination; notify any health and human services agency, as defined by Section 531.001 (Definitions), Government Code, that contracts with the home and community support services agency for the delivery of health care services of DPRS's determination; and provide to the licensing state agency and any contracting health and human services agency access to DPRS's records or documents relating to DPRS's investigation. Makes nonsubstantive changes.

(c) Provides that this section does not apply to an investigation of alleged or suspected abuse, neglect, or exploitation in which a provider, as defined by Section 48.251, is or may be alleged to have committed the abuse, neglect, or exploitation. Provides that an investigation described by this subsection is governed by Subchapter F.

SECTION 14. Amends Section 48.151(e), Human Resources Code, to provide that this section does not apply to investigations conducted under Subchapter F, rather than Subchapters F or H.

SECTION 15. Amends Section 48.201, Human Resources Code, as amended by S.B. 219, 84th Legislature, Regular Session, 2015, as follows:

Sec. 48.201. APPLICATION OF SUBCHAPTER. Provides that this subchapter does not apply to an investigation conducted under Subchapter F, rather than Subchapters F or H, except as otherwise provided.

SECTION 16. Amends Subchapter F, Chapter 48, Human Resources Code, as amended by S.B. 219, 84th Legislature, Regular Session, 2015, as follows:

SUBCHAPTER F. INVESTIGATIONS OF ABUSE, NEGLECT, OR EXPLOITATION OF INDIVIDUALS RECEIVING SERVICES FROM CERTAIN PROVIDERS

Sec. 48.251. DEFINITIONS. (a) Defines "behavioral health services," "community center," "facility," "health and human services agency," "home and community-based services," "local intellectual and developmental disability authority," "local mental health authority," "managed care organization," and "provider."

(b) Requires the executive commissioner by rule to adopt definitions of "abuse," "neglect," "exploitation," and "an individual receiving services" for purposes of this subchapter and investigations conducted under this subchapter, rather than under this subchapter and Subchapter H. Makes a nonsubstantive change.

Sec. 48.252. New heading: INVESTIGATION OF REPORTS OF ABUSE, NEGLECT, OR EXPLOITATION BY PROVIDER. (a) Requires DPRS to receive and, except as provided by Subsection (b), investigate under this subchapter reports of the abuse, neglect, or exploitation of an individual receiving services if the person alleged or suspected to have committed the abuse, neglect, or exploitation is a provider.

Deletes existing text requiring DPRS to receive and investigate reports of the abuse, neglect, or exploitation of an individual with a disability receiving services in a mental health facility operated by DSHS or a facility licensed under Chapter 252 (Intermediate Care Facilities for the Mentally Retarded), Health and Safety Code; in or from a community center, a local mental health authority, or a local intellectual and developmental disability authority; or through a program providing services to that person by contract with a mental health facility operated by DSHS, a community center, a local mental health authority, or a local intellectual and developmental disability authority.

(b) Prohibits DPRS from investigating under this subchapter reports of abuse, neglect, or exploitation alleged or suspected to have been committed by a provider that is operated, licensed, certified, or registered by a state agency that has authority under this chapter or other law to investigate reports of abuse, neglect, or exploitation of an individual by the provider. Requires DPRS to forward any report of abuse, neglect, or exploitation alleged or suspected to have been committed by a provider described by this subsection to the appropriate state agency for investigation.

Deletes existing text requiring DPRS to receive and investigate reports of the abuse, neglect, or exploitation of an individual with a disability receiving services in a state supported living center or the ICF-IID component of the Rio Grande State Center; or through a program providing services to that person by contract with a state supported living center or the ICF-IID component of the Rio Grande State Center.

(c) Requires DPRS to receive and investigate under this subchapter reports of abuse, neglect, or exploitation of an individual who lives in a residence that is owned, operated, or controlled by a provider who provides home and community-based services under the home and community-based services waiver program described by Section 534.001(11)(B), Government Code, regardless of whether the individual is receiving services under that waiver program from the provider.

Deletes existing text requiring the executive commissioner by rule to define who is "an individual with a disability receiving services."

Deletes existing Subsection (d) defining "community center," "local mental health authority," and "local intellectual and developmental disability authority."

Sec. 48.253. ACTION ON REPORT. (a) Creates this subsection from existing text. Requires DPRS, on receipt by DPRS of a report of alleged abuse, neglect, or exploitation under this subchapter, to initiate a prompt and thorough investigation as needed to evaluate the accuracy of the report and to assess the need for emergency protective services, unless DPRS, in accordance with rules adopted under this subchapter, determines that the report is frivolous or patently without a factual basis or does not concern abuse, neglect, or exploitation.

(b) Requires DPRS to notify the provider and the appropriate health and human services agency in accordance with rules adopted by the executive commissioner

after receiving a report that alleges that a provider is or may be the person who committed the alleged abuse, neglect, or exploitation.

(c) Requires that the provider identified under Subsection (b) to:

(1) cooperate completely with an investigation conducted under this subchapter; and

(2) provide DPRS complete access during an investigation to:

(A) all sites owned, operated, or controlled by the provider; and

(B) clients and client records.

(d) Requires the executive commissioner to adopt rules governing investigations conducted under this subchapter.

Sec. 48.254. FORWARDING OF CERTAIN REPORTS. (a) Requires the executive commissioner by rule to establish procedures for DPRS to use to forward a copy of the initial intake report and a copy of the completed provider investigation report relating to alleged or suspected abuse, neglect, or exploitation to the appropriate provider and health and human services agency.

Deletes existing text requiring DPRS, according to DPRS rules, to forward a copy of the initial intake report and a copy of the completed investigation report relating to alleged or suspected abuse, neglect, or exploitation to the appropriate facility, community center, local mental health authority, local intellectual and developmental disability authority, or program providing mental health or intellectual disability services under contract with the facility, community center, or authority.

(b) Requires DPRS to redact from an initial intake report and from the copy of the completed provider investigation report any identifying information contained in the report relating to the person who reported the alleged or suspected abuse, neglect, or exploitation under Section 48.051 (Report).

(c) Requires a provider that receives a completed investigation report under Subsection (a) to forward the report to the managed care organization with which the provider contracts for services for the alleged victim.

Sec. 48.255. RULES FOR INVESTIGATIONS UNDER THIS SUBCHAPTER. (a) Requires the executive commissioner to adopt rules to:

(1) prioritize investigations conducted under this subchapter with the primary criterion being whether there is a risk that a delay in the investigation will impede the collection of evidence in that investigation;

(2) establish procedures for resolving disagreements between the department and health and human services agencies concerning DPRS's investigation findings; and

(3) provide for an appeals process by DPRS for the alleged victim of abuse, neglect, or exploitation.

Deletes existing text requiring DPRS, DADS, and DSHS to develop rules to prioritize investigations conducted under this subchapter with the primary criterion being whether there is a risk that a delay in the investigation will impede the collection of evidence in that investigation; facilitate investigations in state mental health facilities and state supported living centers.

(b) Creates this subsection from text of existing Subsection (d). Prohibits a confirmed investigation finding by DPRS from being changed by the administrator of a facility, a community center, a local mental health authority, or a local intellectual and developmental disability authority.

Deletes the text of existing Subsection (b) requiring the executive commissioner by rule to establish procedures for resolving disagreements between DPRS and DADS or DSHS concerning the department's investigation findings.

Deletes existing Subsection (c) requiring DPRS, DADS, and DSHS to develop and propose to the executive commissioner rules to facilitate investigations in community centers, local mental health authorities, and local intellectual and developmental disability authorities.

Deletes existing Subsection (c-1) requiring the executive commissioner to adopt rules regarding investigations in a facility licensed under Chapter 252, Health and Safety Code, to ensure that those investigations are as consistent as practicable with other investigations conducted under this subchapter.

Deletes existing Subsection (d) prohibiting a confirmed investigation finding by DPRS from being changed by a superintendent of a state mental health facility, by a director of a state supported living center, by a director of a community center, by a local mental health authority, or local intellectual and developmental disability authority.

Deletes existing Subsection (e) requiring executive commissioner to provide by rule for an appeals process by the alleged victim of abuse, neglect, or exploitation under this section.

Deletes existing Subsection (f) authorizing the executive commissioner by rule to assign priorities to an investigation conducted by DPRS under this section, and requiring that the primary criterion used by the executive commissioner in assigning a priority be the risk that a delay in the investigation will impede the collection of evidence.

Sec. 48.256. SHARING PROVIDER INFORMATION. (a) Requires the executive commissioner to adopt rules that prescribe the appropriate manner in which health and human services agencies and managed care organizations provide DPRS with information necessary to facilitate identification of individuals receiving services from providers and to facilitate notification of providers by the department.

(b) Requires the executive commissioner to adopt rules requiring a provider to provide information to the administering health and human services agency necessary to facilitate identification by DPRS of individuals receiving services from providers and to facilitate notification of providers by DPRS.

(c) Requires a provider of home and community-based services under the home and community-based services waiver program described by Section 534.001(11)(B), Government Code, to post in a conspicuous location inside any residence owned, operated, or controlled by the provider in which home and community-based waiver services are provided, a sign that states:

(1) the name, address, and telephone number of the provider;

(2) the effective date of the provider's contract with the applicable health and human services agency to provide home and community-based services; and

(3) the name of the legal entity that contracted with the applicable health and human services agency to provide those services.

Sec. 48.257. RETALIATION PROHIBITED. (a) Prohibits a provider of home and community-based services from retaliating against a person for filing a report or providing information in good faith relating to the possible abuse, neglect, or exploitation of an individual receiving services.

(b) Provides that this section does not prohibit a provider of home and community-based services from terminating an employee for a reason other than retaliation.

Sec. 48.258. New heading: TRACKING SYSTEM FOR REPORTS AND INVESTIGATIONS. (a) Requires the health and human services agencies, at the direction of the executive commissioner, to jointly develop and implement a system to track reports and investigations under this subchapter.

Deletes existing text requiring DPRS, DADS, and DSHS, at the direction of the executive commissioner, to jointly develop and implement a single system to track reports and investigations under this subchapter.

(b) Requires the health and human services agencies, rather than DPRS, DADS, and DSHS, to use appropriate methods of measuring the number and outcome of reports and investigations under this subchapter.

SECTION 17. Amends Section 48.301, Human Resources Code, as amended by S.B. 219, 84th Legislature, Regular Session, 2015, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Deletes an existing exception to a requirement that DPRS refer a report of the abuse, neglect, or exploitation of a person with a disability in a facility operated, licensed, certified, or registered by a state agency who is receiving services as described by section 48.252 to that agency.

(a-1) Provides that this subchapter does not apply to a report of suspected abuse, neglect, or exploitation of an individual receiving services from a provider as described by Subchapter F.

SECTION 18. Sections 48.401(1) and (3), Human Resources Code, to define "agency" and "employee."

SECTION 19. Repealers:

(1) Section 261.404(f) (defining "community center" and "provider"), Family Code, as amended by S.B. 219, 84th Legislature, Regular Session, 2015; and

(2) Subchapter H, Chapter 48, Human Resources Code.

SECTION 20. (a) Requires HHSC, in a contract between HHSC and a managed care organization under Chapter 533, Government Code, that is entered into or renewed on or after the effective date of this Act, to require that the managed care organization comply with:

(1) Section 533.005(a), Government Code, as amended by this Act;

(2) the standards established under Section 533.0061(a), Government Code, as added by this Act; and

(3) Section 533.0063, Government Code, as added by this Act.

(b) Requires HHSC to seek to amend contracts entered into with managed care organizations under Chapter 533, Government Code, before the effective date of this Act to require that those managed care organizations comply with the provisions specified in

Subsection (a) of this section. Provides that the contract provision prevails to the extent of a conflict between those provisions and a provision of a contract with a managed care organization entered into before the effective date of this Act.

SECTION 21. Requires HHSC to submit to the legislature the initial report required under Section 533.0061(c), Government Code, as added by this Act, not later than December 1, 2016.

SECTION 22. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 23. Effective date: September 1, 2015.