

BILL ANALYSIS

C.S.H.B. 271
By: Miller
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that Texas is home to a large veteran population and that a significant number of veterans suffer from some degree of post-traumatic stress disorder or a traumatic brain injury resulting from service. Concerns have been raised regarding the limited treatment options available to these veterans and the need for a safe alternative to traditional treatments. C.S.H.B. 271 seeks to address these concerns by establishing a veterans recovery pilot program to provide diagnostic services, hyperbaric oxygen treatment, and support services to eligible veterans.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 271 amends the Health and Safety Code to require the Health and Human Services Commission (HHSC), using existing resources, to establish and operate the veterans recovery pilot program to provide diagnostic services, hyperbaric oxygen treatment, and support services to eligible veterans who have post-traumatic stress disorder or a traumatic brain injury. The bill prohibits HHSC from operating the pilot program if there is insufficient money in the veterans recovery account established under the bill's provisions to cover HHSC expenses in administering the pilot program. The bill authorizes the executive commissioner of HHSC to appoint an advisory board to assist HHSC in developing the pilot program. The bill requires the executive commissioner to adopt rules to implement the pilot program, including certain standards for veteran and facility eligibility under the pilot program and standards to ensure patient confidentiality is protected under the pilot program.

C.S.H.B. 271 establishes the veterans recovery account as a dedicated account in the general revenue fund that consists of gifts, grants, and other donations received for the account and interest earned on the investment of money in the fund. The bill exempts the account from Government Code provisions relating to the payment of certain claims from available money. The bill requires the executive commissioner to administer the account and restricts the use of money in the account to paying for expenses of administering the pilot program, diagnostic testing and treatment of an eligible veteran under the pilot program, and necessary travel and living expenses for a veteran required to travel to obtain treatment under the pilot program. The bill requires the executive commissioner to seek reimbursement for payments made under the pilot program from the U.S. Department of Defense TRICARE program, appropriate federal

agencies, and any other responsible third party payor.

C.S.H.B. 271 requires the executive commissioner by rule to adopt standards for the provision of hyperbaric oxygen treatment under the pilot program to veterans who have been diagnosed with post-traumatic stress disorder or a traumatic brain injury, have been prescribed that treatment by a health care practitioner, and voluntarily agree to treatment under the pilot program. The bill authorizes a facility providing medical care to a veteran who is eligible for hyperbaric oxygen treatment under the pilot program to apply for reimbursement for treatment under the pilot program. The bill requires the facility to submit a treatment plan to HHSC before providing such treatment, prescribes the required contents of a treatment plan, and sets out requirements for HHSC relating to the approval or disapproval of a treatment plan. The bill requires the executive commissioner to reserve in the veterans recovery account an amount equal to the estimated treatment costs and necessary travel and living expenses specified in the treatment plan for each veteran that is approved for treatment under the pilot program.

C.S.H.B. 271 authorizes a facility to provide hyperbaric oxygen treatment under the pilot program to an eligible veteran if HHSC approved a treatment plan for the veteran. The bill requires a facility that elects to provide such treatment to provide the treatment without charge to the veteran and exempts a veteran receiving treatment under the pilot program from liability for the treatment costs or expenses incurred. The bill authorizes a facility to submit to HHSC a request for reimbursement from the veterans recovery account for treatment expenses incurred. The bill requires a facility that elects to provide treatment under the pilot program to submit to HHSC regular reports of the veteran's measured health improvements under the treatment plan. The bill prescribes the conditions for reimbursement of a facility's treatment expenses from the account and, if treatment expenses exceed funds reserved for the treatment, exempts the state and the account from liability for the amount in excess of the reserved funds. The bill authorizes a facility to submit a modified treatment plan to request the reservation of funds in addition to funds reserved under the original treatment plan. The bill requires the executive commissioner, using money in the account, to reimburse a veteran required to travel to obtain treatment under the pilot program for the travel and living expenses approved by HHSC in the treatment plan and prohibits the expenses from exceeding the amount reserved for those expenses.

C.S.H.B. 271 requires HHSC, if a facility or veteran fails to request reimbursement for treatment or for travel and living expenses under the pilot program for at least six months following the conclusion of treatment, to notify the facility and the veteran receiving treatment under the facility's treatment plan that the funding reserved for the treatment and expenses will be terminated on the 90th day after the date HHSC provides notice unless the facility or veteran notifies HHSC of continued treatment and expenses under the pilot program or requests reimbursement for the treatment already provided or expenses already incurred under the pilot program. The bill requires the executive commissioner to terminate the reservation of funds in the veterans recovery account under a facility's treatment plan for a veteran if the facility or veteran fails to provide timely notice to HHSC of continued treatment and expenses.

C.S.H.B. 271 requires HHSC, not later than October 1 of each even-numbered year, to submit to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature a report regarding the pilot program that includes an evaluation of the pilot program's effectiveness and the number of participating veterans and facilities. The bill expires September 1, 2023, and transfers any remaining balance in the veterans recovery account on that date to the general revenue fund. The bill requires the executive commissioner to adopt the rules necessary to implement the pilot program not later than January 1, 2018.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 271 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subtitle B, Title 2, Health and Safety Code, is amended by adding Chapter 49 to read as follows:

CHAPTER 49. VETERANS RECOVERY PILOT PROGRAM

Sec. 49.001. DEFINITIONS. In this chapter:

(1) "Facility" includes a hospital, public health clinic, outpatient health clinic, community health center, and any other facility authorized under department rules to provide hyperbaric oxygen treatment under this chapter.

(2) "Health care practitioner" means a person who is licensed to provide medical or other health care in this state and who has prescriptive authority, including a physician.

(3) "Hyperbaric oxygen treatment" means treatment for traumatic brain injury or post-traumatic stress disorder prescribed by a health care practitioner and delivered in:

(A) a hyperbaric chamber approved by the United States Food and Drug Administration; or

(B) a hyperbaric oxygen device that is approved by the United States Food and Drug Administration for investigational use under the direction of an institutional review board with a national clinical trial number.

(4) "Physician" means a person licensed to practice medicine by the Texas Medical Board.

(5) "Pilot program" means the Veterans Recovery Pilot Program established under this chapter.

(6) "Traumatic brain injury" means an acquired injury to the brain. The term does not include brain dysfunction caused by congenital or degenerative disorders or birth trauma.

(7) "Veteran" means an individual who has served in:

(A) the army, navy, air force, coast guard, or marine corps of the United States;

(B) the state military forces as defined by Section 431.001, Government Code; or

(C) an auxiliary service of one of the armed

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle B, Title 2, Health and Safety Code, is amended by adding Chapter 49 to read as follows:

CHAPTER 49. VETERANS RECOVERY PILOT PROGRAM

Sec. 49.001. DEFINITIONS. In this chapter:

(1) "Facility" includes a hospital, public health clinic, outpatient health clinic, community health center, and any other facility authorized under commission rules to provide hyperbaric oxygen treatment under this chapter.

(2) "Health care practitioner" means a person who is licensed to provide medical or other health care in this state and who has prescriptive authority, including a physician.

(3) "Hyperbaric oxygen treatment" means treatment for traumatic brain injury or post-traumatic stress disorder prescribed by a health care practitioner and delivered in:

(A) a hyperbaric chamber approved by the United States Food and Drug Administration; or

(B) a hyperbaric oxygen device that is approved by the United States Food and Drug Administration for investigational use under the direction of an institutional review board with a national clinical trial number.

(4) "Physician" means a person licensed to practice medicine by the Texas Medical Board.

(5) "Pilot program" means the Veterans Recovery Pilot Program established under this chapter.

(6) "Traumatic brain injury" means an acquired injury to the brain. The term does not include brain dysfunction caused by congenital or degenerative disorders or birth trauma.

(7) "Veteran" means an individual who has served in:

(A) the army, navy, air force, coast guard, or marine corps of the United States;

(B) the state military forces as defined by Section 431.001, Government Code; or

(C) an auxiliary service of one of the armed

forces described in Paragraphs (A) and (B).
Sec. 49.002. ESTABLISHMENT AND OPERATION OF PILOT PROGRAM. (a) Except as provided by Subsection (b), the department, using existing resources, shall establish and operate the Veterans Recovery Pilot Program to provide diagnostic services, hyperbaric oxygen treatment, and support services to eligible veterans who have post-traumatic stress disorder or a traumatic brain injury.
(b) If there is insufficient money in the veterans recovery account established under Section 49.004 to cover the department's expenses in administering the pilot program, the department may not operate the pilot program.
(c) The commissioner may appoint an advisory board to assist the department in developing the pilot program.

Sec. 49.003. RULES. The executive commissioner shall adopt rules to implement this chapter, including standards for veteran and facility eligibility under the pilot program and standards to ensure patient confidentiality is protected under the pilot program. The standards must require that:

- (1) eligible facilities comply with applicable fire codes, oversight requirements, and any treatment protocols provided in department rules; and
- (2) eligible participants in the pilot program reside in this state.

Sec. 49.004. VETERANS RECOVERY ACCOUNT. (a) The veterans recovery account is a dedicated account in the general revenue fund.

(b) The veterans recovery account consists of:

- (1) gifts, grants, and other donations received for the account; and
- (2) interest earned on the investment of money in the fund.

(c) Section 403.071, Government Code, does not apply to the veterans recovery account.

(d) The commissioner shall administer the veterans recovery account. Money in the account may be used only to pay for:

- (1) expenses of administering the pilot program;
- (2) diagnostic testing and treatment of a veteran with post-traumatic stress disorder

forces described in Paragraphs (A) and (B).
Sec. 49.002. ESTABLISHMENT AND OPERATION OF PILOT PROGRAM. (a) Except as provided by Subsection (b), the commission, using existing resources, shall establish and operate the Veterans Recovery Pilot Program to provide diagnostic services, hyperbaric oxygen treatment, and support services to eligible veterans who have post-traumatic stress disorder or a traumatic brain injury.
(b) If there is insufficient money in the veterans recovery account established under Section 49.004 to cover the commission's expenses in administering the pilot program, the commission may not operate the pilot program.
(c) The executive commissioner may appoint an advisory board to assist the commission in developing the pilot program.

Sec. 49.003. RULES. The executive commissioner shall adopt rules to implement this chapter, including standards for veteran and facility eligibility under the pilot program and standards to ensure patient confidentiality is protected under the pilot program. The standards must require that:

- (1) eligible facilities comply with applicable fire codes, oversight requirements, and any treatment protocols provided in commission rules; and
- (2) eligible participants in the pilot program reside in this state.

Sec. 49.004. VETERANS RECOVERY ACCOUNT. (a) The veterans recovery account is a dedicated account in the general revenue fund.

(b) The veterans recovery account consists of:

- (1) gifts, grants, and other donations received for the account; and
- (2) interest earned on the investment of money in the fund.

(c) Section 403.071, Government Code, does not apply to the veterans recovery account.

(d) The executive commissioner shall administer the veterans recovery account. Money in the account may be used only to pay for:

- (1) expenses of administering the pilot program;
- (2) diagnostic testing and treatment of a

or a traumatic brain injury under the pilot program; and
(3) a veteran's necessary travel and living expenses for a veteran required to travel to obtain treatment under the pilot program.

(e) The commissioner shall seek reimbursement for payments made under the pilot program from the TRICARE program of the United States Department of Defense, appropriate federal agencies, and any other responsible third party payor.

Sec. 49.005. HYPERBARIC OXYGEN TREATMENT; RESERVATION OF FUNDS. (a) The executive commissioner by rule shall adopt standards for the provision of hyperbaric oxygen treatment under the pilot program to veterans who have been diagnosed with post-traumatic stress disorder or a traumatic brain injury, have been prescribed hyperbaric oxygen treatment by a health care practitioner, and voluntarily agree to treatment under the pilot program.

(b) A facility providing medical care to a veteran who is eligible for hyperbaric oxygen treatment under the pilot program may apply for reimbursement for treatment under the pilot program.

(c) The facility must submit a treatment plan to the department before providing treatment under the pilot program. The treatment plan must include:

(1) a prescription order for hyperbaric oxygen treatment issued by a health care practitioner;

(2) verification of facility and veteran eligibility;

(3) an estimate of the treatment costs and of the veteran's necessary travel and living expenses for a veteran required to travel to obtain the treatment; and

(4) any other information required by the department.

(d) The department shall approve or disapprove a treatment plan within a reasonable time as established by department rule. The department shall notify the facility whether the treatment plan was approved or disapproved by the department.

(e) The department may not approve the provision of hyperbaric oxygen treatment under the pilot program unless the facility is in compliance with applicable department

veteran with post-traumatic stress disorder or a traumatic brain injury under the pilot program; and

(3) a veteran's necessary travel and living expenses for a veteran required to travel to obtain treatment under the pilot program.

(e) The executive commissioner shall seek reimbursement for payments made under the pilot program from the TRICARE program of the United States Department of Defense, appropriate federal agencies, and any other responsible third party payor.

Sec. 49.005. HYPERBARIC OXYGEN TREATMENT; RESERVATION OF FUNDS. (a) The executive commissioner by rule shall adopt standards for the provision of hyperbaric oxygen treatment under the pilot program to veterans who have been diagnosed with post-traumatic stress disorder or a traumatic brain injury, have been prescribed hyperbaric oxygen treatment by a health care practitioner, and voluntarily agree to treatment under the pilot program.

(b) A facility providing medical care to a veteran who is eligible for hyperbaric oxygen treatment under the pilot program may apply for reimbursement for treatment under the pilot program.

(c) The facility must submit a treatment plan to the commission before providing treatment under the pilot program. The treatment plan must include:

(1) a prescription order for hyperbaric oxygen treatment issued by a health care practitioner;

(2) verification of facility and veteran eligibility;

(3) an estimate of the treatment costs and of the veteran's necessary travel and living expenses for a veteran required to travel to obtain the treatment; and

(4) any other information required by the commission.

(d) The commission shall approve or disapprove a treatment plan within a reasonable time as established by commission rule. The commission shall notify the facility whether the treatment plan was approved or disapproved by the commission.

(e) The commission may not approve the provision of hyperbaric oxygen treatment under the pilot program unless the facility is in compliance with applicable commission

standards and rules and the veteran is eligible for treatment under the pilot program.

(f) If there is sufficient money in the veterans recovery account, the department shall approve each treatment plan that meets the requirements of this section and the standards adopted under this chapter.

(g) The commissioner shall reserve in the veterans recovery account an amount equal to the estimated treatment costs and necessary travel and living expenses specified in the treatment plan for each veteran that is approved for treatment under the pilot program.

Sec. 49.006. PROVISION OF SERVICES; REIMBURSEMENT. (a) A facility may provide hyperbaric oxygen treatment under the pilot program to a veteran who has post-traumatic stress disorder or a traumatic brain injury if the department approved a treatment plan under Section 49.005 for the veteran.

(b) A facility that elects to provide hyperbaric oxygen treatment to a veteran under Subsection (a) shall provide the treatment without charge to the veteran. A veteran receiving treatment under the pilot program is not liable for the cost of treatment or expenses incurred under the pilot program. The facility may submit to the department a request for reimbursement from the veterans recovery account for expenses incurred for the treatment.

(c) A facility that elects to provide treatment under the pilot program shall submit to the department regular reports, in the form prescribed by the department, of the veteran's measured health improvements under the treatment plan.

(d) The commissioner shall reimburse a facility for expenses the facility incurred in providing the hyperbaric oxygen treatment from the veterans recovery account if:

(1) the treatment was provided according to the treatment plan approved by the department;

(2) the expenses do not exceed the amount reserved for the treatment under Section 49.005; and

(3) the facility demonstrates in the reports described by Subsection (c) that the veteran is making measured health improvements.

(e) If expenses for the treatment exceed funds reserved for the treatment under

standards and rules and the veteran is eligible for treatment under the pilot program.

(f) If there is sufficient money in the veterans recovery account, the commission shall approve each treatment plan that meets the requirements of this section and the standards adopted under this chapter.

(g) The executive commissioner shall reserve in the veterans recovery account an amount equal to the estimated treatment costs and necessary travel and living expenses specified in the treatment plan for each veteran that is approved for treatment under the pilot program.

Sec. 49.006. PROVISION OF SERVICES; REIMBURSEMENT. (a) A facility may provide hyperbaric oxygen treatment under the pilot program to a veteran who has post-traumatic stress disorder or a traumatic brain injury if the commission approved a treatment plan under Section 49.005 for the veteran.

(b) A facility that elects to provide hyperbaric oxygen treatment to a veteran under Subsection (a) shall provide the treatment without charge to the veteran. A veteran receiving treatment under the pilot program is not liable for the cost of treatment or expenses incurred under the pilot program. The facility may submit to the commission a request for reimbursement from the veterans recovery account for expenses incurred for the treatment.

(c) A facility that elects to provide treatment under the pilot program shall submit to the commission regular reports, in the form prescribed by the commission, of the veteran's measured health improvements under the treatment plan.

(d) The executive commissioner shall reimburse a facility for expenses the facility incurred in providing the hyperbaric oxygen treatment from the veterans recovery account if:

(1) the treatment was provided according to the treatment plan approved by the commission;

(2) the expenses do not exceed the amount reserved for the treatment under Section 49.005; and

(3) the facility demonstrates in the reports described by Subsection (c) that the veteran is making measured health improvements.

(e) If expenses for the treatment exceed

Section 49.005, the state and the veterans recovery account are not liable for the amount in excess of the reserved funds.

(f) A facility may submit a modified treatment plan under Section 49.005 to request the reservation of funds in addition to funds reserved under the original treatment plan.

(g) From money in the veterans recovery account, the commissioner shall reimburse a veteran required to travel to obtain treatment under the pilot program for the travel and living expenses approved by the department in the treatment plan. The expenses may not exceed the amount reserved for those expenses under Section 49.005.

Sec. 49.007. TERMINATION OF RESERVATION OF FUNDS. (a) If the facility or veteran fails to request reimbursement for treatment or for travel and living expenses under the pilot program for at least six months following the conclusion of treatment, the department shall notify the facility and the veteran receiving treatment under the facility's treatment plan that the funding reserved for the treatment and expenses will be terminated on the 90th day after the date the department provides notice under this subsection unless the facility or veteran notifies the department of continued treatment and expenses under the pilot program or requests reimbursement for the treatment already provided or expenses already incurred under the pilot program.

(b) If a facility or veteran fails to notify the department of continued treatment and expenses in the time required under Subsection (a), the commissioner shall terminate the reservation of funds in the veterans recovery account under the facility's treatment plan for that veteran.

Sec. 49.008. REPORT. Not later than October 1 of each even-numbered year, the department shall submit to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature a report regarding the pilot program that includes an evaluation of the effectiveness of the pilot program and the number of veterans and facilities participating in the pilot program.

Sec. 49.009. EXPIRATION OF

funds reserved for the treatment under Section 49.005, the state and the veterans recovery account are not liable for the amount in excess of the reserved funds.

(f) A facility may submit a modified treatment plan under Section 49.005 to request the reservation of funds in addition to funds reserved under the original treatment plan.

(g) From money in the veterans recovery account, the executive commissioner shall reimburse a veteran required to travel to obtain treatment under the pilot program for the travel and living expenses approved by the commission in the treatment plan. The expenses may not exceed the amount reserved for those expenses under Section 49.005.

Sec. 49.007. TERMINATION OF RESERVATION OF FUNDS. (a) If the facility or veteran fails to request reimbursement for treatment or for travel and living expenses under the pilot program for at least six months following the conclusion of treatment, the commission shall notify the facility and the veteran receiving treatment under the facility's treatment plan that the funding reserved for the treatment and expenses will be terminated on the 90th day after the date the commission provides notice under this subsection unless the facility or veteran notifies the commission of continued treatment and expenses under the pilot program or requests reimbursement for the treatment already provided or expenses already incurred under the pilot program.

(b) If a facility or veteran fails to notify the commission of continued treatment and expenses in the time required under Subsection (a), the executive commissioner shall terminate the reservation of funds in the veterans recovery account under the facility's treatment plan for that veteran.

Sec. 49.008. REPORT. Not later than October 1 of each even-numbered year, the commission shall submit to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature a report regarding the pilot program that includes an evaluation of the effectiveness of the pilot program and the number of veterans and facilities participating in the pilot program.

Sec. 49.009. EXPIRATION OF

CHAPTER.

SECTION 2. The executive commissioner of the Health and Human Services Commission shall adopt the rules necessary to implement Chapter 49, Health and Safety Code, as added by this Act, not later than January 1, 2018.

SECTION 3. This Act takes effect September 1, 2017.

CHAPTER.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.