By:  Kolkhorst S.B. No. 750

(In the Senate - Filed February 11, 2019; March 1, 2019, read first time and referred to Committee on Health & Human Services; April 8, 2019, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; April 8, 2019, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Kolkhorst         X

Perry             X

Buckingham        X

Campbell          X

Flores            X

Johnson           X

Miles             X

Powell            X

Seliger           X

COMMITTEE SUBSTITUTE FOR S.B. No. 750 By:  Kolkhorst

A BILL TO BE ENTITLED

AN ACT

relating to maternal and newborn health care and the quality of services provided to women in this state under certain health care programs.

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

SECTION 1.  Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0738 to read as follows:

Sec. 531.0738.  APPLICATION FOR FUNDING TO IMPLEMENT MODEL OF CARE FOR CERTAIN MEDICAID RECIPIENTS. (a)  The commission shall apply to the Centers for Medicare and Medicaid Services to receive any federal money available to implement a model of care that improves the quality and accessibility of care for:

(1)  pregnant women with opioid use disorder enrolled in Medicaid during the prenatal and postpartum periods; and

(2)  their children after birth.

(b)  This section expires September 1, 2021.

SECTION 2.  Chapter 31, Health and Safety Code, is amended by adding Section 31.018 to read as follows:

Sec. 31.018.  REFERRAL FROM HEALTHY TEXAS WOMEN PROGRAM TO PRIMARY HEALTH CARE SERVICES PROGRAM. (a)  In this section, "Healthy Texas Women program" means a program operated by the commission that is substantially similar to the demonstration project operated under former Section 32.0248, Human Resources Code, and that is intended to expand access to preventive health and family planning services for women in this state.

(b)  The executive commissioner by rule shall ensure that women receiving services under the Healthy Texas Women program are referred to and provided with information on the primary health care services program.

SECTION 3.  Chapter 32, Health and Safety Code, is amended by adding Subchapters E and F to read as follows:

SUBCHAPTER E. ENHANCED PRENATAL AND POSTPARTUM CARE SERVICES

Sec. 32.101.  ENHANCED PRENATAL SERVICES FOR CERTAIN WOMEN. The commission, in collaboration with managed care organizations that contract with the commission to provide health care services to medical assistance recipients under Chapter 533, Government Code, shall develop and implement cost-effective, evidence-based, and enhanced prenatal services for high-risk pregnant women covered under the medical assistance program.

Sec. 32.102.  EVALUATION AND ENHANCEMENT OF POSTPARTUM CARE SERVICES FOR CERTAIN WOMEN. (a)  In this section, "Healthy Texas Women program" means a program operated by the commission that is substantially similar to the demonstration project operated under former Section 32.0248, Human Resources Code, and that is intended to expand access to preventive health and family planning services for women in this state.

(b)  The commission shall evaluate postpartum care services provided to women enrolled in the Healthy Texas Women program after the first 60 days of the postpartum period.

(c)  Based on the commission's evaluation under Subsection (b), the commission shall develop an enhanced, cost-effective, and limited postpartum care services package for women enrolled in the Healthy Texas Women program to be provided:

(1)  after the first 60 days of the postpartum period; and

(2)  for a period of not more than 12 months after the date of enrollment in the Healthy Texas Women program.

SUBCHAPTER F. DELIVERY AND IMPROVEMENT OF MATERNAL HEALTH CARE SERVICES INVOLVING MANAGED CARE ORGANIZATIONS

Sec. 32.151.  DEFINITIONS. In this subchapter:

(1)  "Healthy Texas Women program" means a program operated by the commission that is substantially similar to the demonstration project operated under former Section 32.0248, Human Resources Code, and that is intended to expand access to preventive health and family planning services for women in this state.

(2)  "Medicaid managed care organization" means a managed care organization as defined by Section 533.001, Government Code, that contracts with the commission under Chapter 533, Government Code, to provide health care services to medical assistance program recipients.

Sec. 32.152.  ASSESSING PROVISION OF HEALTHY TEXAS WOMEN PROGRAM SERVICES THROUGH MANAGED CARE. (a)  The commission shall assess:

(1)  the feasibility and cost-effectiveness of contracting with Medicaid managed care organizations to provide Healthy Texas Women program services through managed care in one or more health care service regions in this state if the Healthy Texas Women Section 1115 Demonstration Waiver is approved; and

(2)  the potential impact of that delivery model on women receiving services under the program.

(b)  This section expires September 1, 2021.

Sec. 32.153.  CONTINUITY OF CARE FOR CERTAIN WOMEN ENROLLING IN HEALTHY TEXAS WOMEN PROGRAM. The commission shall develop and implement strategies to ensure the continuity of care for women who transition from the medical assistance program and enroll in the Healthy Texas Women program. In developing and implementing strategies under this section, the commission may collaborate with health care providers participating in the Healthy Texas Women program and Medicaid managed care organizations that provide health care services to pregnant women.

Sec. 32.154.  POSTPARTUM DEPRESSION TREATMENT NETWORK. Using money from an available source designated by the commission, the commission, in collaboration with Medicaid managed care organizations and health care providers participating in the Healthy Texas Women program, shall develop and implement a postpartum depression treatment network for women enrolled in the medical assistance or Healthy Texas Women program.

Sec. 32.155.  STATEWIDE INITIATIVES TO IMPROVE QUALITY OF MATERNAL HEALTH CARE. (a)  In this section, "social determinants of health" means the environmental conditions in which an individual lives that affect the individual's health and quality of life.

(b)  The commission shall develop or enhance statewide initiatives to improve the quality of maternal health care services and outcomes for women in this state. The commission shall specify the initiatives that each managed care organization that contracts with the commission to provide health care services in this state must incorporate in the organization's managed care plans. The initiatives may address:

(1)  prenatal and postpartum care rates;

(2)  maternal health disparities that exist for minority women and other high-risk populations of women in this state;

(3)  social determinants of health; or

(4)  other priorities specified by the commission.

(c)  A managed care organization required to incorporate the initiatives in the organization's managed care plans under Subsection (b) may incorporate any additional initiatives to improve the quality of maternal health care services for women receiving health care services through the organization.

(d)  The commission shall prepare and submit to the legislature and make available to the public an annual report that summarizes:

(1)  the commission's progress in developing or enhancing initiatives under this section; and

(2)  each managed care organization's progress in incorporating the required initiatives in the organization's managed care plans.

(e)  The commission may submit the report required under Subsection (d) with the report required under Section 536.008, Government Code.

SECTION 4.  The heading to Chapter 34, Health and Safety Code, is amended to read as follows:

CHAPTER 34. TEXAS MATERNAL MORTALITY AND MORBIDITY REVIEW COMMITTEE [~~TASK FORCE~~]

SECTION 5.  Section 34.001, Health and Safety Code, is amended by adding Subdivision (12-a) to read as follows:

(12-a)  "Review committee" means the Texas Maternal Mortality and Morbidity Review Committee.

SECTION 6.  Sections 34.002, 34.003, 34.004, and 34.005, Health and Safety Code, are amended to read as follows:

Sec. 34.002.  TEXAS MATERNAL MORTALITY AND MORBIDITY REVIEW COMMITTEE [~~TASK FORCE~~]. (a)  The Texas Maternal Mortality and Morbidity Review Committee [~~Task Force~~] is administered by the department.

(b)  The review committee [~~task force~~] is a multidisciplinary advisory committee within the department and is composed of the following 17 members:

(1)  15 members appointed by the commissioner as follows:

(A)  four physicians specializing in obstetrics, at least one of whom is a maternal fetal medicine specialist;

(B)  one certified nurse-midwife;

(C)  one registered nurse;

(D)  one nurse specializing in labor and delivery;

(E)  one physician specializing in family practice;

(F)  one physician specializing in psychiatry;

(G)  one physician specializing in pathology;

(H)  one epidemiologist, biostatistician, or researcher of pregnancy-related deaths;

(I)  one social worker or social service provider;

(J)  one community advocate in a relevant field;

(K)  one medical examiner or coroner responsible for recording deaths; and

(L)  one physician specializing in critical care;

(2)  a representative of the department's family and community health programs; and

(3)  the state epidemiologist for the department or the epidemiologist's designee.

(c)  In appointing members to the review committee [~~task force~~], the commissioner shall:

(1)  include members:

(A)  working in and representing communities that are diverse with regard to race, ethnicity, immigration status, and English proficiency; and

(B)  from differing geographic regions in the state, including both rural and urban areas;

(2)  endeavor to include members who are working in and representing communities that are affected by pregnancy-related deaths and severe maternal morbidity and by a lack of access to relevant perinatal and intrapartum care services; and

(3)  ensure that the composition of the review committee [~~task force~~] reflects the racial, ethnic, and linguistic diversity of this state.

(d)  The commissioner shall appoint from among the review committee [~~task force~~] members a presiding officer.

(e)  A member of the review committee [~~task force~~] appointed under Subsection (b)(1) is not entitled to compensation for service on the review committee [~~task force~~] or reimbursement for travel or other expenses incurred by the member while conducting the business of the review committee [~~task force~~].

(f)  In carrying out its duties, the review committee [~~task force~~] may use technology, including teleconferencing or videoconferencing, to eliminate travel expenses.

Sec. 34.003.  TERMS; VACANCY. (a)  Review committee [~~Task force~~] members appointed by the commissioner serve staggered six-year terms, with the terms of four or five members, as appropriate, expiring February 1 of each odd-numbered year.

(b)  A review committee [~~task force~~] member may serve more than one term.

(c)  A vacancy on the review committee [~~task force~~] shall be filled for the unexpired term in the same manner as the original appointment.

Sec. 34.004.  MEETINGS. (a)  The review committee [~~task force~~] shall meet at least quarterly. The review committee [~~task force~~] may meet at other times at the call of the commissioner.

(b)  Meetings of the review committee [~~task force~~] are subject to Chapter 551, Government Code, except that the review committee [~~task force~~] shall conduct a closed meeting to review cases under Section 34.007.

(c)  The review committee [~~task force~~] shall:

(1)  allow for public comment during at least one public meeting each year;

(2)  present in open session recommendations made under Section 34.005 to help reduce the incidence of pregnancy-related deaths and severe maternal morbidity in this state; and

(3)  post public notice for meetings conducted for the sole purpose of reviewing cases for selection under Section 34.007.

Sec. 34.005.  DUTIES OF REVIEW COMMITTEE [~~TASK FORCE~~]. The review committee [~~task force~~] shall:

(1)  study and review:

(A)  cases of pregnancy-related deaths;

(B)  trends, rates, or disparities in pregnancy-related deaths and severe maternal morbidity;

(C)  health conditions and factors that disproportionately affect the most at-risk population as determined in the joint biennial report required under Section 34.015; and

(D)  best practices and programs operating in other states that have reduced rates of pregnancy-related deaths;

(2)  compare rates of pregnancy-related deaths based on the socioeconomic status of the mother;

(3)  determine the feasibility of the review committee [~~task force~~] studying cases of severe maternal morbidity; and

(4)  in consultation with the Perinatal Advisory Council, make recommendations to help reduce the incidence of pregnancy-related deaths and severe maternal morbidity in this state.

SECTION 7.  Section 34.0055(a), Health and Safety Code, is amended to read as follows:

(a)  Using existing resources, the commission, in consultation with the review committee [~~task force~~], shall:

(1)  make available to physicians and other persons licensed or certified to conduct a substance use screening and domestic violence screening of pregnant women information that includes:

(A)  guidance regarding best practices for verbally screening a pregnant woman for substance use and verbally screening a pregnant woman for domestic violence using a validated screening tool; and

(B)  a list of substance use treatment resources and domestic violence prevention and intervention resources in each geographic region of this state; and

(2)  review and promote the use of educational materials on the consequences of opioid drug use and on domestic violence prevention and intervention during pregnancy.

SECTION 8.  Section 34.006, Health and Safety Code, is amended to read as follows:

Sec. 34.006.  CONSULTATIONS AND AGREEMENTS WITH OUTSIDE PARTIES. (a)  The department and review committee [~~task force~~] may consult with any relevant experts and stakeholders, including:

(1)  anesthesiologists;

(2)  intensivists or critical care physicians;

(3)  nutritionists;

(4)  substance abuse treatment specialists;

(5)  hospital staff or employees;

(6)  representatives of the state Medicaid program;

(7)  paramedics or other emergency medical response personnel;

(8)  hospital-based risk management specialists;

(9)  representatives of local health departments and public health districts in this state;

(10)  public health experts;

(11)  government representatives or officials; and

(12)  law enforcement officials.

(b)  In gathering information, the department and review committee [~~task force~~] may consult with representatives of any relevant state professional associations and organizations, including:

(1)  District XI of the American Congress of Obstetricians and Gynecologists;

(2)  the Texas Association of Obstetricians and Gynecologists;

(3)  the Texas Nurses Association;

(4)  the Texas Section of the Association of Women's Health, Obstetric and Neonatal Nurses;

(5)  the Texas Academy of Family Physicians;

(6)  the Texas Pediatric Society;

(7)  the Consortium of Texas Certified Nurse-Midwives;

(8)  the Association of Texas Midwives;

(9)  the Texas Hospital Association;

(10)  the Texas Medical Association; and

(11)  the Texas Public Health Association.

(c)  In consulting with individuals or organizations under Subsection (a) or (b), a member of the review committee [~~task force~~] or employee of the department may not disclose any identifying information of a patient or health care provider.

(d)  The department on behalf of the review committee [~~task force~~] may enter into agreements with institutions of higher education or other organizations consistent with the duties of the department or review committee [~~task force~~] under this chapter.

SECTION 9.  Sections 34.007(a) and (c), Health and Safety Code, are amended to read as follows:

(a)  The department shall determine a statistically significant number of cases of pregnancy-related deaths for review. The department shall either randomly select cases or select all cases for the review committee [~~task force~~] to review under this subsection to reflect a cross-section of pregnancy-related deaths in this state.

(c)  If feasible, the department may select cases of severe maternal morbidity for review. In selecting cases under this subsection, the department shall randomly select cases for the review committee [~~task force~~] to review to reflect trends identified under Subsection (b).

SECTION 10.  Sections 34.008(a) and (b), Health and Safety Code, are amended to read as follows:

(a)  On selecting a case of pregnancy-related death or severe maternal morbidity for review, the department shall, in accordance with this section, obtain information relevant to the case to enable the review committee [~~task force~~] to review the case. The department shall provide the information to the review committee [~~task force~~].

(b)  The information provided to the review committee [~~task force~~] may not include identifying information of a patient or health care provider, including:

(1)  the name, address, or date of birth of the patient or a member of the patient's family; or

(2)  the name or specific location of a health care provider that treated the patient.

SECTION 11.  Section 34.009, Health and Safety Code, is amended by amending Subsections (b), (c), (d), (e), and (h) and adding Subsection (b-1) to read as follows:

(b)  Except as provided by Subsection (b-1), confidential [~~Confidential~~] information that is acquired by the department and that includes identifying information of an individual or health care provider is privileged and may not be disclosed to any person. Information that may not be disclosed under this subsection includes:

(1)  the name and address of a patient or a member of the patient's family;

(2)  any service received by the patient or a member of the patient's family;

(3)  the social and economic condition of the patient or a member of the patient's family;

(4)  medical, dental, and mental health care information related to the patient or a member of the patient's family, including diagnoses, conditions, diseases, or disability; and

(5)  the identity of a health care provider that provided any services to the patient or a member of the patient's family.

(b-1)  Confidential information that is acquired by the department under this section that includes identifying information of an individual or health care provider may be securely disclosed to an appropriate federal agency for the limited purpose of complying with applicable requirements under the federal Preventing Maternal Deaths Act of 2018 (Pub. L. No. 115-344).

(c)  Review committee [~~Task force~~] work product or information obtained by the department under this chapter, including information contained in an electronic database established and maintained under Section 34.012, or any other document or record, is confidential. This subsection does not prevent the review committee [~~task force~~] or department from releasing information described by Subsection (d) or (e) or from submitting the report required by Section 34.015.

(d)  Information is not confidential under this section if the information is general information that cannot be connected with any specific individual, case, or health care provider, such as:

(1)  total expenditures made for specified purposes;

(2)  the number of families served by particular health care providers or agencies;

(3)  aggregated data on social and economic conditions;

(4)  medical data and information related to health care services that do not include any identifying information relating to a patient or the patient's family;

(5)  information, including the source, value, and purpose, related to gifts, grants, or donations to or for use by the review committee [~~task force~~]; and

(6)  other statistical information.

(e)  The review committee [~~task force~~] may publish statistical studies and research reports based on information that is confidential under this section, provided that the information:

(1)  is published in the aggregate;

(2)  does not identify a patient or the patient's family;

(3)  does not include any information that could be used to identify a patient or the patient's family; and

(4)  does not identify a health care provider.

(h)  The review committee [~~task force~~] and the department shall comply with all state and federal laws and rules relating to the transmission of health information, including the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191) and rules adopted under that Act.

SECTION 12.  Section 34.010, Health and Safety Code, is amended to read as follows:

Sec. 34.010.  SUBPOENA AND DISCOVERY. Review committee [~~Task force~~] work product or information that is confidential under Section 34.009 is privileged, is not subject to subpoena or discovery, and may not be introduced into evidence in any administrative, civil, or criminal proceeding against a patient, a member of the family of a patient, or a health care provider.

SECTION 13.  Section 34.011(a), Health and Safety Code, is amended to read as follows:

(a)  A member of the review committee [~~task force~~] or a person employed by or acting in an advisory capacity to the review committee [~~task force~~] and who provides information, counsel, or services to the review committee [~~task force~~] is not liable for damages for an action taken within the scope of the functions of the review committee [~~task force~~].

SECTION 14.  Sections 34.012(a) and (c), Health and Safety Code, are amended to read as follows:

(a)  The department may establish and maintain an electronic database to track cases of pregnancy-related deaths and severe maternal morbidity to assist the department and review committee [~~task force~~] in performing functions under this chapter.

(c)  The database may be accessed only by the department and the review committee [~~task force~~] for the purposes described in this chapter.

SECTION 15.  Section 34.014, Health and Safety Code, is amended to read as follows:

Sec. 34.014.  FUNDING. The department may accept gifts and grants from any source to fund the duties of the department and the review committee [~~task force~~] under this chapter.

SECTION 16.  Sections 34.015(a) and (b), Health and Safety Code, are amended to read as follows:

(a)  Not later than September 1 of each even-numbered year, the review committee [~~task force~~] and the department shall submit a joint report on the findings of the review committee [~~task force~~] under this chapter to the governor, lieutenant governor, speaker of the house of representatives, and appropriate committees of the legislature.

(b)  The report must include the review committee's [~~task force's~~] recommendations under Section 34.005(4).

SECTION 17.  Section 34.0155, Health and Safety Code, is amended to read as follows:

Sec. 34.0155.  REPORT ON PREGNANCY-RELATED DEATHS, SEVERE MATERNAL MORBIDITY, AND POSTPARTUM DEPRESSION. The commission shall:

(1)  evaluate options for reducing pregnancy-related deaths, focusing on the most prevalent causes of pregnancy-related deaths as identified in the joint biennial report required under Section 34.015, and for treating postpartum depression in economically disadvantaged women;

(2)  in coordination with the department and the review committee [~~task force~~], identify strategies to:

(A)  lower costs of providing medical assistance under Chapter 32, Human Resources Code, related to severe maternal morbidity and chronic illness; and

(B)  improve quality outcomes related to the underlying causes of severe maternal morbidity and chronic illness; and

(3)  not later than December 1 of each even-numbered year, submit to the governor, the lieutenant governor, the speaker of the house of representatives, the Legislative Budget Board, and the appropriate standing committees of the legislature a written report that includes:

(A)  a summary of the commission's and department's efforts to accomplish the tasks described by Subdivisions (1) and (2); and

(B)  a summary of the report required by Section 34.0156.

SECTION 18.  Section 34.0156(a), Health and Safety Code, is amended to read as follows:

(a)  Using existing resources, the department, in collaboration with the review committee [~~task force~~], shall promote and facilitate the use among health care providers in this state of maternal health and safety informational materials, including tools and procedures related to best practices in maternal health and safety.

SECTION 19.  Section 34.017(b), Health and Safety Code, is amended to read as follows:

(b)  The department may not disclose the information described by Subsection (a) to the review committee [~~task force~~] or any other person.

SECTION 20.  Section 34.018, Health and Safety Code, is amended to read as follows:

Sec. 34.018.  SUNSET PROVISION. (a)  The review committee [~~task force~~] is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the review committee [~~task force~~] is abolished and this chapter expires September 1, 2027 [~~2023~~].

(b)  The Sunset Advisory Commission shall review the review committee during the two-year period preceding the date the department is scheduled for abolition under Section 1001.003, but the review committee is continued in existence until the date provided by Subsection (a). This subsection expires September 1, 2025.

SECTION 21.  Section 1001.0712(c), Health and Safety Code, is amended to read as follows:

(c)  The department, in consultation with the Texas Maternal Mortality and Morbidity Review Committee [~~Task Force~~], shall examine national standards regarding the collection of death information and may convene a panel of experts to advise the department and the review committee [~~task force~~] in developing recommendations for improving the collection of accurate information related to cause of death.

SECTION 22.  Section 34.001(14), Health and Safety Code, is repealed.

SECTION 23.  (a)  In this section, "Healthy Texas Women program" means a program operated by the Health and Human Services Commission that is substantially similar to the demonstration project operated under former Section 32.0248, Human Resources Code, and that is intended to expand access to preventive health and family planning services for women in this state.

(b)  If the Centers for Medicare and Medicaid Services approves the waiver submitted by the executive commissioner of the Health and Human Services Commission under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315) for the Healthy Texas Women Section 1115 Demonstration Waiver, the executive commissioner shall, as soon as practicable after the waiver is granted, seek an amendment to the waiver to provide enhanced services under the Healthy Texas Women program.

SECTION 24.  As soon as practicable after the effective date of this Act:

(1)  the executive commissioner of the Health and Human Services Commission shall adopt rules as necessary to implement the changes in law made by this Act; and

(2)  the Health and Human Services Commission shall apply for any federal money available to implement the model of care described by Section 531.0738, Government Code, as added by this Act.

SECTION 25.  On the effective date of this Act:

(1)  the Maternal Mortality and Morbidity Task Force is renamed the Texas Maternal Mortality and Morbidity Review Committee; and

(2)  a reference in law to the task force means the review committee.

SECTION 26.  If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 27.  The Health and Human Services Commission is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, implement a provision of this Act using other appropriations available for that purpose.

SECTION 28.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.

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