

By: Klick, Noble, Hull, et al.

H.B. No. 3820

Substitute the following for H.B. No. 3820:

By: Hull

C.S.H.B. No. 3820

A BILL TO BE ENTITLED

AN ACT

relating to health care specialty consultations in certain child abuse or neglect investigations and assessments.

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

SECTION 1. Section 261.3017, Family Code, is amended by amending Subsections (b) and (c) and adding Subsections (c-1), (c-2), and (e) to read as follows:

(b) Any agreement between the department and the network or between the Department of State Health Services and the system to provide assistance in connection with abuse and neglect investigations conducted by the department must require the network and the system to have the ability to obtain consultations with physicians licensed to practice medicine in this state and board certified in the relevant field or specialty, including radiologists, geneticists, orthopedists, and endocrinologists, to diagnose and treat certain [~~who specialize in identifying~~] unique health conditions, including:

(1) rickets;

(2) Ehlers-Danlos Syndrome;

(3) osteogenesis imperfecta;

(4) vitamin D deficiency; and

(5) other medical conditions that mimic child maltreatment or increase the risk of misdiagnosis of child maltreatment [~~similar metabolic bone diseases or connective tissue~~

1 disorders].

2 (c) During [~~If, during~~] an abuse or neglect investigation
3 authorized by this subchapter or an assessment provided under
4 Subsection (b), the department [~~or a physician in the network~~
5 ~~determines that a child requires a specialty consultation with a~~
6 ~~physician, the department or the physician~~] shall refer the child's
7 case [~~to the system~~] for a specialty [~~the~~] consultation^[7] if:

8 (1) the department determines the child requires a
9 specialty consultation with a physician;

10 (2) the child's primary care physician or other
11 primary health care provider who provided health care or treatment
12 or otherwise evaluated the child recommends a specialty
13 consultation; or

14 (3) the child's parent or legal guardian or, if
15 represented by an attorney, the attorney of the parent or legal
16 guardian requests a specialty consultation [~~the system has~~
17 ~~available capacity to take the child's case~~].

18 (c-1) For a case in which a specialty consultation is
19 required by Subsection (c), the department shall refer the case to a
20 physician who:

21 (1) is licensed to practice medicine in this state
22 under Subtitle B, Title 3, Occupations Code;

23 (2) is board certified in a field or specialty
24 relevant to diagnosing and treating the conditions described by
25 Subsection (b); and

26 (3) was not involved with the report of suspected
27 abuse or neglect.

1 (c-2) Before referring a child's case under Subsection (c),
2 the department shall provide to the child's parent or legal
3 guardian or, if represented by an attorney, the attorney of the
4 parent or legal guardian written notice of the name, contact
5 information, and credentials of the specialist. The parent, legal
6 guardian, or attorney, as applicable, may object to the proposed
7 referral and request referral to another specialist. The
8 department and the parent, legal guardian, or attorney, as
9 applicable, shall collaborate in good faith to select an acceptable
10 specialist from the proposed specialists.

11 (e) This section may not be construed to prohibit a child's
12 parent or legal guardian or, if represented by an attorney, the
13 attorney of the parent or legal guardian from otherwise obtaining
14 an alternative opinion at the parent's, legal guardian's, or
15 attorney's, as applicable, own initiative and expense. The
16 department shall accept and consider an alternative opinion
17 obtained and provided under this section and shall document its
18 analysis and determinations regarding the opinion.

19 SECTION 2. Subchapter D, Chapter 261, Family Code, is
20 amended by adding Section 261.30175 to read as follows:

21 Sec. 261.30175. MITIGATION OF PROVIDER CONFLICTS IN ABUSE
22 OR NEGLECT INVESTIGATION CONSULTATIONS. (a) In this section:

23 (1) "Forensic assessment" means a medical
24 examination, psychosocial evaluation, medical case review,
25 specialty evaluation, or other forensic evaluation service
26 conducted by a physician under Section 261.3017 in connection with
27 any investigation of a suspected case of abuse or neglect for the

1 primary purpose of providing the department, law enforcement, or
2 the court with expert advice, recommendations, or testimony on the
3 case.

4 (2) "Health care practitioner" means an individual
5 licensed, certified, or otherwise authorized to administer health
6 care services in the ordinary course of business or professional
7 practice. The term includes a physician, medical student, resident
8 physician, child abuse fellow, advanced practice registered nurse,
9 nurse, and physician assistant.

10 (3) "Network" has the meaning assigned by Section
11 [261.3017](#).

12 (4) "System" has the meaning assigned by Section
13 [261.3017](#).

14 (b) A health care practitioner who reports suspected abuse
15 or neglect of a child may not provide forensic assessment services
16 in connection with an investigation resulting from the report.
17 This subsection applies regardless of whether the practitioner is a
18 member of the network or system.

19 (c) When referring a case for forensic assessment, the
20 department shall refer the case to a physician authorized to
21 practice medicine in this state under Subtitle B, Title 3,
22 Occupations Code, who was not involved with the report of suspected
23 abuse or neglect.

24 (d) This section may not be construed to:

25 (1) prohibit the department from interviewing the
26 health care practitioner in the practitioner's capacity as a
27 principal or collateral source; or

1 (2) otherwise restrict the department's ability to
2 conduct an investigation as provided by this subchapter.

3 SECTION 3. This Act takes effect September 1, 2021.