

BILL ANALYSIS

H.B. 3807
By: Klick
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The COVID-19 pandemic accelerated a nationwide nursing shortage, which affects access to care for medically fragile children and their families. As demand for nurses continues to outpace supply, the ongoing needs of Texas children with medically complex conditions will no longer be able to be met at home, instead forcing them into hospitals for routine care and leaving parents without a choice but to leave the workforce. H.B. 3807 seeks to address this issue by requiring the Health and Human Services Commission to establish a program under which a parent, guardian, or family member of certain Medicaid recipients may be licensed as a health aide and provide health services to the child under the direction of the professional registered nurse providing private duty nursing services to the child. While not replacing the private duty nursing benefit in Texas, this legislation will help mitigate staffing issues that have affected this benefit for more than a decade.

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

H.B. 3807 amends the Government Code to require the Health and Human Services Commission (HHSC), in consultation with the Texas Board of Nursing and the STAR Kids Managed Care Advisory Committee, to develop and implement a family health aide program to enable a parent, legal guardian, or family member of a Medicaid recipient who is enrolled in the STAR Kids Medicaid managed care program and is eligible to receive private duty nursing services under the Texas health steps comprehensive care program in a home setting to assist in providing those services as a licensed health aide. The recipient's parent, legal guardian, or family member, as defined by HHSC rule, must elect to participate in the family health aide program, and the home and community support services agency that employs the professional registered nurse providing private duty nursing services to the recipient must agree to employ the parent, legal guardian, or family member.

H.B. 3807 requires HHSC to add criteria to any screening tool or other instrument used to conduct an assessment or reassessment of a Medicaid recipient under the STAR Kids Medicaid managed care program to identify recipients who are eligible to participate in the family health aide program and requires HHSC to notify the recipient's parent or legally authorized representative of the potential availability of the program. The bill requires an applicable parent, legal guardian, or other family member to hold a license under the program to participate in the

program. The bill requires a license applicant to apply to HHSC in the form and manner prescribed by HHSC and to satisfy all training, testing, and other minimum qualification standards established by HHSC. The bill requires the executive commissioner of HHSC, in consultation with the Texas Board of Nursing, to adopt rules and procedures for issuing, renewing, suspending, or revoking a license issued under the program, which must do the following:

- provide that HHSC establish minimum qualification standards and training requirements for obtaining and maintaining the license;
- provide that HHSC issue the license; and
- prescribe procedures for accepting complaints and conducting investigations regarding allegations of a license holder violating the licensure terms.

The bill also requires HHSC to develop or approve a health aide training program, sets out the topics of instruction that must be included in the program, and prohibits HHSC from imposing a fee on a license applicant for the training.

H.B. 3807 limits the authority of a licensed health aide to provide health services as follows:

- the services are provided to a Medicaid recipient who is related to the license holder and enrolled in the family health aide program;
- the services are delegated to the health aide by the nurse providing private duty nursing services to the recipient and are performed under the nurse's supervision;
- the services are consistent with board rules governing the delegation of nursing tasks by a registered professional nurse and federal law and regulations governing the provision of private duty nursing services under Medicaid;
- the services are consistent with the recipient's plan of care; and
- the services are authorized by HHSC rules.

H.B. 3807 requires HHSC to establish and maintain a registry of health aides licensed under the family health aide program. The bill requires HHSC to provide information about the program to home and community support services agencies that provide private duty nursing services under the STAR Kids Medicaid managed care program and to encourage agencies to employ licensed health aides. The bill requires HHSC to reimburse a home and community support services agency for services provided to a Medicaid recipient by a licensed health aide, based on billing units, at a rate that is at least equal to the current Medicare low utilization payment adjustment visit rates for Texas. The reimbursement is subject to an enhanced reimbursement rate of a certified nursing assistant.

H.B. 3807 requires the executive commissioner of HHSC to adopt rules necessary to implement the family health aide program and requires HHSC to implement the program not later than September 1, 2024. The bill provides for the delayed implementation of any provision for which an applicable state agency determines a federal waiver or authorization is necessary for implementation until the waiver or authorization is requested and granted.

EFFECTIVE DATE

September 1, 2023.