S.B. No. 26

AN ACT

relating to local mental health authority and local behavioral health authority audits and mental and behavioral health reporting, services, and programs.

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

SECTION 1.  Section 8.151, Education Code, is amended to read as follows:

Sec. 8.151.  DEFINITIONS. In this subchapter:

(1)  "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(2)  "Local[~~, "local~~] mental health authority" and "non-physician mental health professional" have the meanings assigned by Section 571.003, Health and Safety Code.

SECTION 2.  Section 8.152, Education Code, is amended by adding Subsections (c) and (d) to read as follows:

(c)  If a local mental health authority is unable to employ a professional who qualifies as a non-physician mental health professional, the authority may request a waiver from the executive commissioner for approval to employ, for purposes of performing the functions and duties of a non-physician mental health professional under this subchapter, a person who:

(1)  is a licensed master social worker, as defined by Section 505.002, Occupations Code; or

(2)  has been issued a licensed professional counselor associate license by the Texas State Board of Examiners of Professional Counselors.

(d)  A person approved under a waiver under Subsection (c) shall carry out the functions and duties required of a non-physician mental health professional under this subchapter in the same manner as a non-physician mental health professional employed under Subsection (a) or (b).

SECTION 3.  Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.09915 to read as follows:

Sec. 531.09915.  INNOVATION MATCHING GRANT PROGRAM FOR MENTAL HEALTH EARLY INTERVENTION AND TREATMENT. (a) In this section:

(1)  "Inpatient mental health facility" has the meaning assigned by Section 571.003, Health and Safety Code.

(2)  "Program" means the grant program established under this section.

(3)  "State hospital" has the meaning assigned by Section 552.0011, Health and Safety Code.

(b)  To the extent money is appropriated to the commission for that purpose, the commission shall establish a matching grant program to provide support to eligible entities for community-based initiatives that promote identification of mental health issues and improve access to early intervention and treatment for children and families. The initiatives may:

(1)  be evidence-based or otherwise demonstrate positive outcomes, including:

(A)  improved relationship skills;

(B)  improved self-esteem;

(C)  reduced involvement in the juvenile justice system;

(D)  participation in the relinquishment avoidance program under Subchapter E, Chapter 262, Family Code; and

(E)  avoidance of emergency room use; and

(2)  include:

(A)  training; and

(B)  services and supports for:

(i)  community-based initiatives;

(ii)  agencies that provide services to children and families;

(iii)  individuals who work with children or caregivers of children showing atypical social or emotional development or other challenging behaviors; and

(iv)  children in or at risk of placement in foster care or the juvenile justice system.

(c)  The commission may award a grant under the program only in accordance with a contract between the commission and a grant recipient. The contract must include provisions under which the commission is given sufficient control to ensure the public purpose of providing mental health prevention services to children and families is accomplished and the state receives the return benefit.

(d)  The executive commissioner by rule shall establish application and eligibility requirements for an entity to be awarded a grant under the program.

(e)  The following entities are eligible for a grant awarded under the program:

(1)  a hospital licensed under Chapter 241, Health and Safety Code;

(2)  a mental hospital licensed under Chapter 577, Health and Safety Code;

(3)  a hospital district;

(4)  a local mental health authority;

(5)  a child-care facility, as defined by Chapter 42, Human Resources Code;

(6)  a county or municipality; and

(7)  a nonprofit organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt entity under Section 501(c)(3) of that code.

(f)  In awarding grants under the program, the commission shall prioritize entities that work with children and family members of children with a high risk of experiencing a crisis or developing a mental health condition to reduce:

(1)  the need for future intensive mental health services;

(2)  the number of children at risk of placement in foster care or the juvenile justice system; or

(3)  the demand for placement in state hospitals, inpatient mental health facilities, and residential behavioral health facilities.

(g)  The commission shall condition each grant awarded under the program on the grant recipient providing matching money in an amount that is equal to at least 10 percent of the grant amount.

(h)  A grant recipient may only use grant money awarded under the program and matching money provided by the recipient to develop innovative strategies that provide:

(1)  resiliency;

(2)  coping and social skills;

(3)  healthy social and familial relationships; and

(4)  parenting skills and behaviors.

(i)  A grant recipient may not use grant money awarded under the program or matching money provided by the recipient to:

(1)  reimburse an expense or pay a cost that another source, including the Medicaid program, is obligated to reimburse or pay by law or under a contract; or

(2)  supplant or be a substitute for money awarded to the recipient from a non-Medicaid federal funding source, including federal grant funding.

(j)  A Medicaid provider's receipt of a grant under the program does not affect any legal or contractual duty of the provider to comply with requirements under the Medicaid program.

(k)  The commission may use a reasonable amount of the money appropriated by the legislature for the purposes of the program, not to exceed five percent, to pay the administrative costs of implementing and administering the program.

SECTION 4.  Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.09991 to read as follows:

Sec. 531.09991.  PLAN FOR THE TRANSITION OF CARE OF CERTAIN INDIVIDUALS. (a) Not later than January 1, 2025, the commission shall, in consultation with nursing facilities licensed under Chapter 242, Health and Safety Code, develop a plan for transitioning from a hospital that primarily provides behavioral health services to a nursing facility individuals who require:

(1)  a level of care provided by nursing facilities; and

(2)  a high level of behavioral health supports and services.

(b)  The plan must include:

(1)  recommendations for providing incentives to providers for the provision of services to individuals described by Subsection (a), including an assessment of the feasibility of including incentive payments under the Quality Incentive Payment Program (QIPP) for those providers;

(2)  recommendations for methods to create bed capacity, including reserving specific beds; and

(3)  a fiscal estimate, including estimated costs to nursing facilities and savings to hospitals that will result from transitioning individuals under Subsection (a).

(c)  The commission may implement the plan, including recommendations under the plan, only if the commission determines that implementing the plan would increase the amount of available state general revenue.

(d)  This section expires September 1, 2025.

SECTION 5.  Section 531.1025, Government Code, is amended by adding Subsection (c) to read as follows:

(c)  The commission's office of inspector general shall conduct performance audits and require financial audits to be conducted of each local behavioral health authority designated under Section 533.0356, Health and Safety Code, and local mental health authority, as defined by Section 531.002, Health and Safety Code. The office shall:

(1)  establish a performance audit schedule that ensures the office audits each authority described by this subsection at least once every five years;

(2)  establish a financial audit schedule that ensures each authority described by this subsection:

(A)  undergoes a financial audit conducted by an independent auditor at least once every three years; and

(B)  submits to the office the results of the financial audit; and

(3)  require additional audits to be conducted as necessary based on adverse findings in a previous audit or as requested by the commission.

SECTION 6.  Section 534.0535, Health and Safety Code, is amended to read as follows:

Sec. 534.0535.  JOINT DISCHARGE PLANNING. (a) The executive commissioner shall adopt or amend, and the department shall enforce, rules that require continuity of services and planning for patient care between department facilities and local mental health authorities.

(b)  At a minimum, the rules must:

(1)  specify the local mental health authority's responsibility for ensuring the successful transition of patients who are determined by the facility to be medically appropriate for discharge; and

(2)  require participation by a department facility in joint discharge planning with [~~between a department facility and~~] a local mental health authority before the [~~a~~] facility discharges a patient or places the patient on an extended furlough with an intent to discharge.

(c)  The local mental health authority shall plan with the department facility to [~~and~~] determine the appropriate community services for the patient.

(d)  The local mental health authority shall arrange for the provision of the services upon discharge [~~if department funds are to be used and may subcontract with or make a referral to a local agency or entity~~].

(e)  The commission shall require each facility to designate at least one employee to provide transition support services for patients who are determined medically appropriate for discharge from the facility.

(f)  Transition support services provided by the local mental health authority must be designed to complement joint discharge planning efforts and may include:

(1)  enhanced services and supports for complex or high-need patients, including services and supports necessary to create viable discharge or outpatient management plans; and

(2)  post-discharge monitoring for up to one year after the discharge date to reduce the likelihood of readmission.

(g)  The commission shall ensure that each department facility concentrates the provision of transition support services for patients who have been:

(1)  admitted to and discharged from a facility multiple times during a 30-day period; or

(2)  in the facility for longer than 365 consecutive days.

SECTION 7.  Chapter 572, Health and Safety Code, is amended by adding Section 572.0026 to read as follows:

Sec. 572.0026.  VOLUNTARY ADMISSION RESTRICTIONS. The facility administrator of an inpatient mental health facility or the administrator's designee may only approve the admission of a person for whom a proper request for voluntary inpatient services is filed if, at the time the request is filed, there is available space at the inpatient mental health facility.

SECTION 8.  Section 1001.084, Health and Safety Code, as redesignated by Chapter 1236 (S.B. 1296), Acts of the 84th Legislature, Regular Session, 2015, is amended by amending Subsections (a), (b), (c), and (d) and adding Subsections (d-1), (d-2), and (g) to read as follows:

(a)  The department, in collaboration with the commission, shall establish and maintain a public reporting system of performance and outcome measures relating to mental health and substance use [~~abuse~~] services established by the [~~Legislative Budget Board, the department, and the~~] commission. The system must allow external users to view and compare the performance[~~, outputs,~~] and outcomes of:

(1)  local mental health authorities [~~community centers established under Subchapter A, Chapter 534, that provide mental health services~~];

(2)  local behavioral health authorities [~~Medicaid managed care pilot programs that provide mental health services~~]; and

(3)  local intellectual and developmental disability authorities [~~agencies, organizations, and persons that contract with the state to provide substance abuse services~~].

(b)  The public reporting system must allow external users to view and compare the performance[~~, outputs,~~] and outcomes of the Medicaid managed care programs that provide mental health services.

(c)  The department shall post the performance[~~, output,~~] and outcome measures on the department's Internet website so that the information is accessible to the public. The department shall post the measures monthly, or as frequently as possible [~~quarterly or semiannually in accordance with when the measures are reported to the department~~].

(d)  The [~~department shall consider public input in determining the appropriate outcome measures to collect in the~~] public reporting system must[~~. To the extent possible, the department shall~~] include outcome measures that capture:

(1)  inpatient psychiatric care diversion;

(2)  [~~,~~] avoidance of emergency room use;

(3)  [~~,~~] criminal justice diversion;

(4)  [~~, and~~] the numbers of people who are homeless served;

(5)  access to timely and adequate screening and rapid crisis stabilization services;

(6)  timely access to and appropriate treatment from community-based crisis residential services and hospitalization;

(7)  improved functioning as a result of medication-related and psychosocial rehabilitation services;

(8)  information related to the number of people referred to a state hospital, state supported living center, or community-based hospital, the length of time between referral and admission, the length of stay, and the length of time between the date a person is determined ready for discharge or transition and the date of discharge or transition;

(9)  the rate of denial of services or requests for assistance from jails and other entities and the reason for denial;

(10)  quality of care in community-based mental health services and state facilities;

(11)  the average number of hours of service provided to individuals in a full level of care compared to the recommended number of hours of service for each level of care; and

(12)  any other relevant information to determine the quality of services provided during the reporting period.

(d-1)  A local intellectual and developmental disability authority is only required to report information described by Subsection (d)(8) that is related to a state supported living center.

(d-2)  This subsection and Subsections (d) and (d-1) expire September 1, 2025.

(g)  In this section:

(1)  "Local behavioral health authority" means an authority designated by the commission under Section 533.0356.

(2)  "Local intellectual and developmental disability authority" and "local mental health authority" have the meanings assigned by Section 531.002.

(3)  "State hospital" has the meaning assigned by Section 552.0011.

(4)  "State supported living center" has the meaning assigned by Section 531.002.

SECTION 9.  Not later than November 1, 2024, the executive commissioner of the Health and Human Services Commission shall by rule establish the process for requesting a waiver under Section 8.152(c), Education Code, as added by this Act.

SECTION 10.  Section 1001.084(e), Health and Safety Code, as redesignated by Chapter 1236 (S.B. 1296), Acts of the 84th Legislature, Regular Session, 2015, is repealed.

SECTION 11.  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 12.  This Act takes effect September 1, 2023.

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I hereby certify that S.B. No. 26 passed the Senate on April 13, 2023, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendments on May 26, 2023, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Secretary of the Senate

I hereby certify that S.B. No. 26 passed the House, with amendments, on May 23, 2023, by the following vote: Yeas 143, Nays 0, two present not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Chief Clerk of the House

Approved:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_             Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_           Governor