

By: Klick

H.B. No. 3807

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a family health aide program;  
requiring an occupational license.

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

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

SUBCHAPTER T. FAMILY HEALTH AIDE PROGRAM

Sec. 531.801. DEFINITIONS. (a) In this subchapter:

(1) "Home and community support services agency" means  
a person licensed under Chapter 142, Health and Safety Code.

(2) "Licensed health aide" means a person who is:

(A) the parent, legal guardian, or family member  
of a recipient participating in the program;

(B) licensed under the program to assist in  
providing private duty nursing services; and

(C) employed by the home and community support  
services agency providing services to the recipient.

(3) "Private duty nursing services" means nursing  
services provided under the Texas Health Steps comprehensive care  
program to a recipient enrolled in the STAR Kids Medicaid managed  
care program.

(4) "Program" means the family health aide program  
established under this subchapter.

Sec. 531.802. FAMILY HEALTH AIDE PROGRAM. The commission,

1 in consultation with the Texas Board of Nursing and the STAR Kids  
2 Managed Care Advisory Committee, shall develop and implement a  
3 family health aide program to enable a parent, legal guardian, or  
4 family member of a recipient receiving private duty nursing  
5 services in a home setting to assist in providing those services as  
6 a licensed health aide.

7 Sec. 531.803. PROGRAM ELIGIBILITY. An individual is  
8 eligible to participate in the program if:

9 (1) the recipient is:

10 (A) enrolled in the STAR Kids Medicaid managed  
11 care program; and

12 (B) eligible to receive private duty nursing  
13 services under the Texas Health Steps comprehensive care program;

14 (2) the recipient's parent, legal guardian, or family  
15 member, as defined by commission rule, elects to participate in the  
16 program; and

17 (3) the home and community support services agency  
18 that employs the professional registered nurse providing private  
19 duty nursing services to the recipient agrees to employ the  
20 recipient's parent, legal guardian, or family member.

21 Sec. 531.804. RECIPIENT SCREENING AND NOTIFICATION. The  
22 commission shall:

23 (1) add criteria to any screening tool or other  
24 instrument used to conduct an assessment or reassessment of a  
25 recipient under the STAR Kids Medicaid managed care program to  
26 identify recipients who are eligible to participate in the program;  
27 and

1           (2) notify the parent or legally authorized  
2 representative of the recipient of the potential availability of  
3 the program.

4           Sec. 531.805. HEALTH AIDE LICENSE REQUIRED. (a) To assist  
5 in providing private duty nursing services to a recipient under the  
6 program, a parent, legal guardian, or other family member of the  
7 recipient must hold a license under this subchapter. An applicant  
8 for a license under this subchapter must:

9           (1) submit an application to the commission in the  
10 form and manner the commission prescribes; and

11           (2) satisfy all training, testing, and other minimum  
12 qualification standards the commission establishes.

13           (b) Notwithstanding any other law, the executive  
14 commissioner shall, in consultation with the Texas Board of  
15 Nursing, adopt rules and procedures for issuing a license and for  
16 renewing, suspending, or revoking a license issued under this  
17 subchapter. The rules must:

18           (1) provide that the commission establish minimum  
19 qualification standards and, subject to Section 531.806, training  
20 requirements for obtaining and maintaining the license;

21           (2) provide that the commission issue the license  
22 under this subchapter; and

23           (3) prescribe procedures for accepting complaints and  
24 conducting investigations of alleged violations of the terms of the  
25 licensure by license holders.

26           Sec. 531.806. TRAINING PROGRAM. (a) The commission shall  
27 develop or approve a health aide training program. The program must

include instruction on:

- (1) transferring;
- (2) positioning;
- (3) ambulation;
- (4) feeding;
- (5) personal care;
- (6) catheter care;
- (7) range of motion;
- (8) vital signs;
- (9) blood pressure;
- (10) medication administration;
- (11) tracheostomy care;
- (12) enteral care and therapy;
- (13) administering enteral feedings;
- (14) formula types and preparation; and
- (15) other tasks the commission approves.

(b) The commission may not impose a fee on an applicant for the training required by this subchapter.

Sec. 531.807. LICENSE RESTRICTED; LIMITED SCOPE OF PRACTICE. (a) A license holder under this subchapter:

(1) may only provide health aide services to a recipient who is:

(A) related to the license holder; and

(B) enrolled in the program; and

(2) must be employed by the home and community support services agency that employs the nurse providing private duty nursing services to the recipient.

1        (b) A licensed health aide may only provide health services  
2 to a recipient if the services are:

3            (1) delegated to the health aide by the professional  
4 registered nurse providing private duty nursing services to the  
5 recipient;

6            (2) performed under the supervision of that nurse;

7            (3) consistent with Texas Board of Nursing rules  
8 governing the delegation of nursing tasks by a registered  
9 professional nurse and federal law and regulations governing the  
10 provision of private duty nursing services under Medicaid,  
11 including 42 C.F.R. Section 440.80;

12           (4) consistent with the recipient's plan of care; and

13           (5) authorized by commission rules.

14        Sec. 531.808. LICENSED HEALTH AIDE REGISTRY. The  
15 commission shall establish and maintain a registry of health aides  
16 licensed under this subchapter.

17        Sec. 531.809. HOME AND COMMUNITY SUPPORT SERVICES AGENCIES  
18 OUTREACH. The commission shall:

19           (1) provide information about the program to home and  
20 community support services agencies that provide private duty  
21 nursing services under the STAR Kids Medicaid managed care program;  
22 and

23           (2) encourage agencies to employ health aides licensed  
24 under this subchapter.

25        Sec. 531.810. REIMBURSEMENT FOR LICENSED HEALTH AIDE  
26 SERVICES. The commission shall reimburse a home and community  
27 support services agency for services provided to a recipient by a

1 licensed health aide under this subchapter at a rate that is at  
2 least equal to the current Medicare low utilization payment  
3 adjustment visit rates for this state. Reimbursement for the  
4 services is subject to an enhanced reimbursement rate of a  
5 certified nursing assistant. The commission shall administer  
6 reimbursement based on billing units.

7 Sec. 531.811. RULES. The executive commissioner shall  
8 adopt rules necessary to implement this subchapter.

9 SECTION 2. The commission shall implement the family health  
10 aide program established under Subchapter T, Chapter 531,  
11 Government Code, as added by this Act, not later than September 1,  
12 2024.

13 SECTION 3. If before implementing any provision of this Act  
14 a state agency determines that a waiver or authorization from a  
15 federal agency is necessary for implementation of that provision,  
16 the agency affected by the provision shall request the waiver or  
17 authorization and may delay implementing that provision until the  
18 waiver or authorization is granted.

19 SECTION 4. This Act takes effect September 1, 2023.