

By: Kolkhorst, et al.

S.B. No. 26

A BILL TO BE ENTITLED

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. 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:

1           (A) improved relationship skills;

2           (B) improved self-esteem;

3           (C) reduced involvement in the juvenile justice  
4 system;

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

7           (E) avoidance of emergency room use; and

8           (2) include:

9           (A) training; and

10          (B) services and supports for:

11               (i) community-based initiatives;

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

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

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

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

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

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

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

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

7           (3) a hospital district;

8           (4) a local mental health authority;

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

11           (6) a county or municipality; and

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

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

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

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

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

26       (g) The commission shall condition each grant awarded under  
27 the program on the grant recipient providing matching money in an

1 amount that is equal to at least 10 percent of the grant amount.

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

5 (1) resiliency;

6 (2) coping and social skills;

7 (3) healthy social and familial relationships; and

8 (4) parenting skills and behaviors.

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

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

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

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

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

24 SECTION 2. Subchapter B, Chapter 531, Government Code, is  
25 amended by adding Section 531.09991 to read as follows:

26 Sec. 531.09991. PLAN FOR THE TRANSITION OF CARE OF CERTAIN  
27 INDIVIDUALS. (a) Not later than January 1, 2025, the commission

1 shall, in consultation with nursing facilities licensed under  
2 Chapter 242, Health and Safety Code, develop a plan for  
3 transitioning from a hospital that primarily provides behavioral  
4 health services to a nursing facility individuals who require:

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

6 and

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

9 (b) The plan must include:

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

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

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

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

24 (d) This section expires September 1, 2025.

25 SECTION 3. Section 531.1025, Government Code, is amended by  
26 adding Subsection (c) to read as follows:

27 (c) The commission's office of inspector general shall

1 conduct performance audits of each local behavioral health  
2 authority designated under Section 533.0356, Health and Safety  
3 Code, and local mental health authority, as defined by Section  
4 531.002, Health and Safety Code. The office shall:

5 (1) establish an audit schedule that ensures each  
6 authority described by this subsection is audited at least once  
7 every 10 years; and

8 (2) conduct additional audits as necessary based on  
9 adverse findings in a previous audit.

10 SECTION 4. Section 534.0535, Health and Safety Code, is  
11 amended to read as follows:

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

17 (b) At a minimum, the rules must:

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

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

27 (c) The local mental health authority shall plan with the

1 department facility to [~~and~~] determine the appropriate community  
2 services for the patient.

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

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

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

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

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

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

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

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

26 SECTION 5. Chapter 572, Health and Safety Code, is amended  
27 by adding Section 572.0026 to read as follows:

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

7        SECTION 6. Section 1001.084, Health and Safety Code, as  
8 redesignated by Chapter 1236 (S.B. 1296), Acts of the 84th  
9 Legislature, Regular Session, 2015, is amended by amending  
10 Subsections (a), (b), (c), and (d) and adding Subsections (d-1),  
11 (d-2), and (g) to read as follows:

12        (a) The department, in collaboration with the commission,  
13 shall establish and maintain a public reporting system of  
14 performance and outcome measures relating to mental health and  
15 substance use [~~abuse~~] services established by the [~~Legislative~~  
16 ~~Budget Board, the department, and the~~] commission. The system must  
17 allow external users to view and compare the performance[~~7~~  
18 ~~outputs,~~] and outcomes of:

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

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

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



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

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

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

- 14 (1) inpatient psychiatric care diversion;  
15 (2) ~~[,]~~ avoidance of emergency room use;  
16 (3) ~~[,]~~ criminal justice diversion;  
17 (4) ~~[, and]~~ the numbers of people who are homeless  
18 served;  
19 (5) access to timely and adequate screening and rapid  
20 crisis stabilization services;  
21 (6) timely access to and appropriate treatment from  
22 community-based crisis residential services and hospitalization;  
23 (7) improved functioning as a result of  
24 medication-related and psychosocial rehabilitation services;  
25 (8) subject to Subsection (d-1), information related  
26 to the number of people referred to a state hospital, state  
27 supported living center, or community-based hospital, the length of

1 time between referral and admission, the length of stay, and the  
2 length of time between the date a person is determined ready for  
3 discharge or transition and the date of discharge or transition;

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

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

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

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

13 (d-1) The information described by Subsection (d)(8) is  
14 only required to be reported by local intellectual and  
15 developmental disability authorities.

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

18 (g) In this section:

19 (1) "Local behavioral health authority" means an  
20 authority designated by the commission under Section [533.0356](#).

21 (2) "Local intellectual and developmental disability  
22 authority" and "local mental health authority" have the meanings  
23 assigned by Section [531.002](#).

24 (3) "State hospital" has the meaning assigned by  
25 Section [552.0011](#).

26 (4) "State supported living center" has the meaning  
27 assigned by Section [531.002](#).

1           SECTION 7. Section 1001.084(e), Health and Safety Code, as  
2 redesignated by Chapter 1236 (S.B. 1296), Acts of the 84th  
3 Legislature, Regular Session, 2015, is repealed.

4           SECTION 8. If before implementing any provision of this Act  
5 a state agency determines that a waiver or authorization from a  
6 federal agency is necessary for implementation of that provision,  
7 the agency affected by the provision shall request the waiver or  
8 authorization and may delay implementing that provision until the  
9 waiver or authorization is granted.

10          SECTION 9. This Act takes effect September 1, 2023.