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:
(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) 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 2. 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 3. 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 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 an audit schedule that ensures each authority described by this subsection is audited at least once every 10 years; and

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

SECTION 4. 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 a local mental health authority before the 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 5. 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 6. 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[ ] 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[output] 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. 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. subject to Subsection (d-1), 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) The information described by Subsection (d)(8) is
only required to be reported by local intellectual and
developmental disability authorities.
(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 7. 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 8. 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 9. This Act takes effect September 1, 2023.