

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

1 associate license by the Texas State Board of Examiners of
2 Professional Counselors.

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

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

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

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

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

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

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

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

27 (A) improved relationship skills;

1 (B) improved self-esteem;

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

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

6 (E) avoidance of emergency room use; and

7 (2) include:

8 (A) training; and

9 (B) services and supports for:

10 (i) community-based initiatives;

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

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

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

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

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

27 (e) The following entities are eligible for a grant awarded

1 under the program:

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

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

6 (3) a hospital district;

7 (4) a local mental health authority;

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

10 (6) a county or municipality; and

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

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

19 (1) the need for future intensive mental health
20 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 4. 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 5. 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 and require financial audits to be
2 conducted of each local behavioral health authority designated
3 under Section 533.0356, Health and Safety Code, and local mental
4 health authority, as defined by Section 531.002, Health and Safety
5 Code. The office shall:

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

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

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

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

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

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

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

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

26 (1) specify the local mental health authority's
27 responsibility for ensuring the successful transition of patients

1 who are determined by the facility to be medically appropriate for
2 discharge; and

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

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

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

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

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

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

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

27 (g) The commission shall ensure that each department

1 facility concentrates the provision of transition support services
2 for patients who have been:

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

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

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

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

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

20 (a) The department, in collaboration with the commission,
21 shall establish and maintain a public reporting system of
22 performance and outcome measures relating to mental health and
23 substance use [~~abuse~~] services established by the [~~Legislative~~
24 ~~Budget Board, the department, and the~~] commission. The system must
25 allow external users to view and compare the performance[~~7~~
26 ~~outputs,~~] and outcomes of:

27 (1) local mental health authorities [~~community~~

1 ~~centers established under Subchapter A, Chapter 534, that provide~~
2 ~~mental health services];~~

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

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

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

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

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

- 22 (1) inpatient psychiatric care diversion;
- 23 (2) [~~✓~~] avoidance of emergency room use;
- 24 (3) [~~✓~~] criminal justice diversion;
- 25 (4) [~~✓ and~~] the numbers of people who are homeless
26 served;
- 27 (5) access to timely and adequate screening and rapid

1 crisis stabilization services;

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

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

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

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

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

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

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

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

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

27 (g) In this section:

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

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

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

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

10 SECTION 9. Not later than November 1, 2024, the executive
11 commissioner of the Health and Human Services Commission shall by
12 rule establish the process for requesting a waiver under Section
13 8.152(c), Education Code, as added by this Act.

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

17 SECTION 11. If before implementing any provision of this
18 Act a state agency determines that a waiver or authorization from a
19 federal agency is necessary for implementation of that provision,
20 the agency affected by the provision shall request the waiver or
21 authorization and may delay implementing that provision until the
22 waiver or authorization is granted.

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

President of the Senate

Speaker of the House

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