

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3459
By: Eiland (Whitmire)
Criminal Justice
5/18/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 3459 amends current law relating to the containment of costs incurred in the correctional health care system.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 499, Government Code, by adding Section 499.055, as follows:

Sec. 499.055. POPULATION MANAGEMENT BASED ON INMATE HEALTH. Requires the Texas Department of Criminal Justice (TDCJ) to adopt policies designed to manage inmate population based on similar health conditions suffered by inmates. Requires that the policies adopted under this section maximize organizational efficiencies and reduce health care costs to TDCJ by housing inmates with similar health conditions in the same unit or units that are, if possible, served by or located near one or more specialty health care providers most likely to be needed for the treatment of the health condition.

SECTION 2. Amends Section 501.063, Government Code, as follows:

Sec. 501.063. New heading: ANNUAL INMATE FEE FOR HEALTH CARE. (a) Requires an inmate confined in a facility operated by or under contract with TDCJ, other than a halfway house, to pay an annual health care services fee to TDCJ in the amount of \$100, rather than requires an inmate confined in a facility operated by or under contract with TDCJ, other than halfway house, who initiates a visit to a health care provider to make a copayment to TDCJ in the amount of \$3. Requires the inmate to pay the annual fee, rather than to make the copayment, out of the inmate's trust fund. Requires that 50 percent of each deposit to the fund, if the balance in the fund is insufficient to cover the fee, rather than the copayment, be applied toward the balance owed until the total amount owed is paid.

(b) Redesignates existing Subsection (c) as Subsection (b). Requires TDCJ to adopt policies to ensure that before any deductions are made from an inmate's trust fund under this section, rather than before an inmate initiates a visit to a health care provider, the inmate is informed that the annual health care services fee, rather than that a \$3 copayment, will be deducted from the inmate's trust fund as required by Subsection (a). Deletes existing text of Subsection (b) prohibiting TDCJ from charging a copayment for health care in certain circumstances.

(c) Redesignates existing Subsection (d) as Subsection (c). Prohibits TDCJ from denying an inmate access to health care as a result of the inmate's failure or inability to pay a fee under this section, rather than to make a copayment.

(d) Redesignates existing Subsection (e) as Subsection (d). Makes no further changes to this subsection.

SECTION 3. Amends Subchapter B, Chapter 501, Government Code, by adding Section 501.067, as follows:

Sec. 501.067. AVAILABILITY OF CERTAIN MEDICATION. (a) Defines, in this section, "over-the-counter medication."

(b) Requires TDCJ to make over-the-counter medication available for purchase by inmates in each inmate commissary operated by or under contract with TDCJ.

(c) Prohibits TDCJ from denying an inmate access to over-the-counter medications as a result of the inmate's inability to pay for the medication. Requires TDCJ to pay for the cost of over-the-counter medication for inmates who are unable to pay for the medication out of the profits of inmate commissaries operated by or under contract with TDCJ.

(d) Authorizes TDCJ to adopt policies concerning the sale and purchase of over-the-counter medication under this section as necessary to ensure the safety and security of inmates in the custody of, and employees of, TDCJ, including policies concerning the quantities and types of over-the-counter medication that may be sold and purchased under this section.

SECTION 4. Amends Subchapter E, Chapter 501, Government Code, by adding Section 501.1485, as follows:

Sec. 501.1485. CORRECTIONS MEDICATION AIDES. (a) Requires TDCJ, in cooperation with The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center, to develop and implement a training program for corrections medication aides that uses a curriculum specific to administering medication in a correctional setting.

(b) Requires TDCJ, The University of Texas Medical Branch at Galveston, and the Texas Tech University Health Sciences Center, in developing the curriculum for the training program, to:

(1) consider the content of the curriculum developed by the American Correctional Association for certified corrections nurses; and

(2) modify as appropriate the content of the curriculum developed under Chapter 242 (Convalescent and Nursing Homes and Related Institutions), Health and Safety Code, for medication aides administering medication in convalescent and nursing homes and related institutions to produce content suitable for administering medication in a correctional setting.

(c) Requires TDCJ to submit an application for the approval of a training program developed under this section, including the curriculum, to the Department of Aging and Disability Services (DADS) in the manner established by the executive commissioner of the Health and Human Services Commission (executive commissioner; HHSC) under Section 161.082, Human Resources Code.

SECTION 5. Reenacts Section 251.012, Health and Safety Code, as amended by Chapters 839 (S.B. 1932) and 1280 (H.B. 1831), Acts of the 81st Legislature, Regular Session, 2009, and amends it as follows:

Sec. 251.012. EXEMPTIONS FROM LICENSING REQUIREMENT. Provides that the following facilities are not required to be licensed under this chapter:

- (1) a home and community support services agency licensed under Chapter 142 (Home and Community Support Services) with a home dialysis designation;
- (2) a hospital licensed under Chapter 241 (Hospitals) that provides dialysis only to individuals receiving inpatient services from the hospital, or outpatient services due to a disaster declared by the governor or a federal disaster declared by the president of the United States occurring in this state or another state during the term of the disaster declaration;
- (3) a hospital operated by or on behalf of the state as part of the managed health care provider network established under Chapter 501 (Inmate Welfare), Government Code, that provides dialysis only to individuals receiving inpatient services from the hospital, or outpatient services while serving a term of confinement in a facility operated by or under contract with TDCJ;
- (4) an end stage renal disease facility operated by or on behalf of the state as part of the managed health care provider network established under Chapter 501, Government Code, that provides dialysis only to individuals receiving those services while serving a term of confinement in a facility operated by or under contract with TDCJ; or
- (5) the office of a physician unless the office is used primarily as an end stage renal disease facility.

Makes nonsubstantive changes.

SECTION 6. Amends Subchapter D, Chapter 161, Human Resources Code, by adding Section 161.082, as follows:

Sec. 161.082. CORRECTIONS MEDICATION AIDES. (a) Requires the executive commissioner to establish:

- (1) minimum standards and procedures for the approval of corrections medication aide training programs, including curricula, developed under Section 501.1485, Government Code;
- (2) minimum requirements for the issuance, denial, renewal, suspension, and revocation of a permit to a corrections medication aide, including the payment of an application or renewal fee in an amount necessary to cover the costs incurred by DADS in administering this section; and
- (3) the acts and practices that are within and outside the scope of a permit issued under this section.

(b) Requires DADS, not later than the 90th day after receipt of an application for approval of a corrections medication aide training program developed under Section 501.1485, Government Code, to:

- (1) approve the program, if the program meets the minimum standards and procedures established under Subsection (a)(1); or
- (2) provide notice to TDCJ that the program is not approved and include in the notice a description of the actions that are required for the program to be approved.

(c) Requires DADS to issue a permit to or renew the permit of an applicant who meets the minimum requirements established under Subsection (a)(2). Requires DADS to coordinate with TDCJ in the performance of DADS's duties and functions under this subsection.

SECTION 7. (a) Requires TDCJ, in cooperation with The University of Texas Medical Branch at Galveston, the Texas Tech University Health Sciences Center, or a successor correctional managed health care provider, to develop the training program required by Section 501.1485, Government Code, as added by this Act, and requires TDCJ to submit an application for approval of that program, as required by Subsection (c) of that section, not later than January 1, 2012. Requires the executive director of TDCJ, if, after the effective date of this Act and before the date TDCJ develops the training program described by this subsection The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center are no longer represented on the Correctional Managed Health Care Committee, or no longer serve as correctional managed health care providers, to request and receive the cooperation of any other state agency determined by the executive director to be an appropriate resource in the development of the program.

(b) Makes application of the change in law made by this Act in amending Section 251.012, Health and Safety Code, prospective.

(c) Requires the executive commissioner to establish the minimum standards and requirements and the acts and practices allowed or prohibited, as required by Section 161.082, Human Resources Code, as added by this Act, not later than January 1, 2012.

SECTION 8. Provides that to the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 9. Effective date: September 1, 2011.