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## TEXAS HOUSE OF REPRESENTATIVES COMMITTEE ON HUMAN SERVICES

Weekly Newsletter  
April 9, 2013 Hearing

### *Bills Considered by Chairman Raymond's Committee*

#### HB 3158: Contracts for Medicaid Managed Care

Author: Rep. John Zerwas

A health maintenance organization can currently contract with the Health and Human Services Commission (HHSC) to become a managed care organization. The state administers Medicaid and CHIP managed care through managed care organizations, which contract with hospitals and physicians to offer health care services to Medicaid and CHIP enrollees.

Recent legislation established a health care collaboratives model, in which a provider-owned network works with traditional insurers, such as health maintenance organizations, to enhance access to high-quality health care and improve the provision of medical services. However, current law does not provide HHSC the legislative authority to establish a health care collaboratives model within the existing Medicaid and CHIP managed care structure. HB 3158 seeks to provide for a pilot project to encourage managed care contracting with provider-owned health care collaboratives in large service delivery areas, such as the Dallas service delivery area, to demonstrate the quality, access, and cost improvements that may be produced in a provider-owned model.



## **HB 1396: Alcohol and Controlled Substance Statistics**

**Author:** Rep. Susan King et al.



Current law includes the possession and use of certain drugs among the conduct that constitutes an offense of abandoning or endangering a child. However, these provisions do not apply to an unborn child. Interested parties have expressed concern for the unborn children of mothers who abuse alcohol and certain illegal substances during their pregnancy, specifically noting the long-term health consequences that can be directly attributed to prenatal alcohol or drug abuse. HB 1396 seeks to provide more information to the Legislature and the public on the number of children who are born addicted to alcohol or a controlled substance and the long-term impact of prenatal alcohol or drug use on those children.

## **HB 604: Evaluation of Potential Foster and Adoptive Parents**

**Author:** J.M. Lozano

Psychological evaluations of potential foster or adoptive parents are good indicators of whether the placement will provide an optimal environment for the child in question and that such evaluations can be used to safeguard against instances of abuse, neglect, and inappropriate adoptions or foster care placements. The parties further contend that these evaluations can provide a valuable tool for parents-to-be to learn about any necessary accommodations a child needs or special needs a child may have. HB 604 addresses these concerns by providing for psychological evaluations of potential foster and adoptive parents.



## **HB 843: Permanency Hearing Notice**

**Author:** Rep. Eddie Lucio III



Youth in foster care frequently struggle to find their voice in a system that often ignores their strengths, values, and opinions. Relevant literature shows that permanency planning is most successful when youth are a part of the planning process and take ownership of decisions that impact their lives. The judicial system plays a critical role in protecting the best interests of youth in foster care, and at each hearing a judge reviews necessary information provided by stakeholders to make appropriate decisions that promote a child's well-being and path to permanency. Other states have made efforts to include older youth in judicial proceedings to ensure they are involved in

decisions that impact their lives, and they contend that such efforts help to ensure that the court system and other parties can gather pertinent information that is needed to assess the best interests of the youth directly from the youth, ensure that youth are provided the opportunity to express their position to the court and benefit from the hearing review process, and support the development of individualized and appropriate service planning that takes into account the youth's perspective.

Under current Texas law, notice of a permanency hearing regarding a child is required to be given to certain parties, including the child's caregiver and attorney ad litem and certain volunteer advocates. While youth are often required to attend these hearings, it is not required that they be given notice of a hearing. HB 843 intends to provide certain youth a level of involvement in the permanency planning process by requiring that they receive notice of a permanency hearing.

### **HB 932: Notification of the Death of a Child in Foster Care**

**Author:** Rep. Sylvester Turner

Recent reports contend that the rate of child deaths resulting from abuse and neglect continues to be higher in Texas than in other states. The deaths of children in the custody of the Department of Family and Protective Services (DFPS) are particularly troubling and warrant legislative priority and prompt review. HB 932 seeks to increase the awareness, oversight, and review of deaths of children within the custody of DFPS by establishing notification requirements relating to the death of such a child.

### **HB 2495: Reporting Child Abuse and Neglect**

**Author:** Rep. Tan Parker



Each year, thousands of Texas children receive state services relating to investigations of suspected cases of child abuse. Many cases of child abuse go undetected, depriving the children of needed medical attention and state intervention. These interested parties conclude that training more people to identify child abuse, particularly those who interact regularly with children such as school personnel and child-care providers, better equips Texas to tackle this problem. HB 2495 seeks to provide for the implementation of policies and training relating to recognizing and reporting child abuse and neglect in certain schools, institutions of higher education, and child-care facilities.

### **HB 2620: A Task Force on Domestic Violence**

**Author:** Rep. Nicole Collier

Pregnant women are at a greater risk for domestic violence, especially from an intimate partner, than the general population of women in the United States. Domestic violence during pregnancy can lead to health complications for both the child and the mother, including miscarriage, low birth weight, and pre-term birth. According to industry experts, homicide is the number one cause of maternal mortality, with almost half of pregnancy-related homicides directly related to domestic violence.

The prenatal and postpartum period presents increased intervention potential for health care professionals because women are more likely to access health care services during this time and programs such as home visitations provide more reliable points of intervention in domestic violence cases. HB 2620 seeks to create a task force to study and address domestic violence in prenatal and postpartum women, including assistance that can be provided by health care providers.



## **HB 3196: Requirements for Certain Health Facilities**

**Author:** Rep. Four Price



Recent legislation extended the certification period for convalescent and nursing facilities from two years to three years. The legislation did not, however, impact the survey period for such facilities or revise the required licensing fees. Because the Department of Aging and Disability Services (DADS) continues to survey these facilities for compliance with state and federal requirements annually, the licensing fees need to be adjusted to account for the extended certification period to cover the expenses of regulating these facilities.

In addition, there is concern that applicants for additional Medicaid beds in a nursing facility who obtain certain waivers relating to the construction, licensing, and certification of new facilities are not being held accountable after a waiver is granted. According to industry data, the number of waivers granted in the past 10 years significantly outnumbers the facilities that were actually constructed, licensed, and certified within the required time frames. Because additional Medicaid beds are usually allocated due to an immediate community need, delays in this process can leave the communities who have expressed a need for more beds struggling to provide necessary care. Requiring applicants for additional Medicaid beds to provide a performance bond that would be forfeited to DADS if the applicant does not follow through with construction of a new nursing facility within the required time frames would help ensure that a waiver applicant actually intends and has the financial ability to construct the nursing facility. Finally, there is concern that current laws governing the election of arbitration to resolve certain disputes between DADS and nursing facilities are in conflict. HB 3196 seeks to address these issues to improve the regulation of convalescent and nursing facilities in Texas.

## **HB 3452: Review of Certain Medicaid Reimbursement Disputes**

**Author:** Rep. Craig Eiland

The Texas Medicaid program provides medical coverage and health care services for certain Texas residents who meet the program's eligibility requirements. Federal law requires that all states ensure that payments made to providers under the program are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are adequately available under the program. These parties assert that certain due process measures, similar to those established under the Texas Workers' Compensation Act, are necessary to allow providers to dispute certain Medicaid reimbursement rates and to help ensure adequate provider participation in the program.

Such measures would not dictate reimbursement rates and would be patterned after a Texas court case in which the courts held that the state had a clear, ministerial duty to provide a health care provider in the Medicaid managed care program with a hearing at the State Office of Administrative Hearings on claims about the provider's contract. HB 3452 seeks to establish a review process for certain reimbursement disputes under the Medicaid program.



## **HB 3787: Eligibility for HHSC Programs**

**Author:** Rep. Charles Perry



The Health and Human Services Commission (HHSC) currently uses information on a driver's license to corroborate and verify information submitted by applicants for certain health and human services programs administered by HHSC, such as Medicaid. The Department of Public Safety (DPS) supplies HHSC with driver's license information in an effort to prevent ineligible applicants from receiving benefits under these programs. Because of the prevalence of fraud among the programs administered by HHSC, information regarding a person's Social Security number is needed to verify the contents of these applications. HB 3787 seeks to prevent fraud and increase the efficiency of certain programs by allowing HHSC to obtain additional information provided on a driver's license application from DPS.

## **HB 2038: Disproportionality and Disparities in Certain Programs**

**Author:** Rep. Dawnna Dukes

The Center for Elimination of Disproportionality and Disparities and the Interagency Council for Addressing Disproportionality were created to address disparities in health and health access among certain Texas populations and disparities in the use of juvenile justice, child welfare, education, and mental health systems by children in Texas, respectively. Both the center and council provide critical services to the state and that certain revisions to the laws regulating these entities are necessary to ensure the programs are meeting intended goals and producing desired effects. HB 2038 seeks to continue the operation of the Interagency Council for Addressing Disproportionality and amend provisions relating to the council and to the Center for Elimination of Disproportionality and Disparities.

## **HB 1947: Criteria for Commitment of a Person with Mental Illness**

**Author:** Rep. Cindy Burkett



There are currently three circumstances under which a person with mental illnesses can be detained and committed by a court for temporary or extended inpatient mental health treatment: the person may cause self-harm, the person may cause harm to others, or the person is experiencing severe or abnormal mental, emotional, or physical distress that causes substantial mental or physical deterioration of the person's ability to function independently, as demonstrated by inability to provide for the person's basic needs, and is not able to make rational

decisions regarding the person's treatment. Some jurisdictions allow individuals to be committed if their condition is likely to deteriorate. The parties contend that this standard has created vagueness and confusion in the commitment process because it relies on making predictions about the person's future condition rather than assessing the person's current state. As a result, individuals may be inappropriately committed, which can add unnecessary expense to a state's mental health system. HB 1947 seeks to clarify the circumstances under which temporary or extended mental health services may be ordered in Texas for a person with mental illness.

## **HB 743: Regulation of Child-Care Facilities**

**Author: Rep. Rick Miller**

Under current law, certain educational entities that operate on-premise, after-school child-care programs are exempt from licensing regulations administered by the Department of Family and Protective Services (DFPS). Certain revisions to the law are necessary to ensure the proper regulation of these entities and protect the children attending certain child-care programs. HB 743 seeks to amend current law relating to an exemption from child-care facility licensing requirements and certain fees charged to each licensed child-care facility by DFPS.



## **HB 1828: Hazardous Duty Pay for Certain Employees**

**Author: Rep. Naomi Gonzalez**

Recent reports show that there has been an increase in the number of forensic and dual diagnosis patients being admitted to state hospitals and state-supported living centers in Texas, with one report asserting that more than half of the individuals served in state supported living centers had a dual diagnosis of both intellectual or developmental disabilities and mental illness. There is a direct correlation between this increase in patients and the significant increases in injuries being sustained by direct care staff at these facilities. In the past few years, workers' compensation claims by direct care staff have increased by roughly 40 percent and incidents of violence at state-run hospitals have increased by more than 20 percent. In light of these circumstances, HB 1828 seeks to allow certain direct care staff to become eligible for hazardous duty pay.



## **HB 1829: Safe Patient Handling Procedures at Hospitals and Nursing Homes**

**Author: Rep. Naomi Gonzalez**

Texas is currently suffering from a shortage of nurses in nursing homes and in hospitals and that many nurses and other direct care staff are frequently injured in the course of lifting and moving patients. It may be possible to better ensure the health and safety of both patients and direct care employees by instituting policies that better train and monitor staff. Such policies would reduce the frequency of injuries to both patients and direct care staff during lifting and moving a patient and create a safer environment that will help attract and retain nurses and health care staff as well as extend the length of time they can



participate in direct patient care. HB 1829 seeks to ensure the safety of patients, nurses, and other health care staff by establishing policies relating to the moving and lifting of patients.

## ***Bills Voted Out of Committee***

**HB 1971:** Relating to a pilot program conducted by the Department of Aging and Disability Services to authorize certain accreditation surveys of assisted living facilities.

**Author:** Rep. John Davis

**HB 1072:** Relating to the eligibility of certain persons for the supplemental nutrition assistance program.

**Authors:** Rep. Alma Allen, Rep. Lon Burnam, Rep. John Zerwas, and Rep. Elliott Naishtat

**HB 2072:** Relating to services for persons who are deaf or hard of hearing and licensing requirements for interpreters for persons who are deaf or hard of hearing; providing criminal penalties; changing the rate of a fee.

**Authors:** Rep. Eddie Rodriguez, Rep. John Davis, and Rep. Elliott Naishtat

**HB 2383:** Relating to the consideration of a life insurance policy in determining eligibility for medical assistance.

**Authors:** Rep. Craig Eiland, Rep. Craig Goldman, and Rep. Steve Toth

**HB 2619:** Relating to the educational needs of children in the conservatorship of the Department of Family and Protective Services.

**Author:** Rep. Elliott Naishtat

**HB 3463:** Relating to information provided to recipients of certain assistance programs.

**Author:** Rep. Dwayne Bohac

**HB 2495:** Relating to reporting child abuse and neglect and to training regarding recognizing and reporting child abuse and neglect at schools, institutions of higher education, and other entities.

**Authors:** Rep. Tan Parker, and Rep. Rick Miller

**HB 843:** Relating to persons entitled to notice of and to participation in a permanency hearing regarding a child in the conservatorship of the state.

**Authors:** Rep. Eddie Lucio III, and Rep. Naomi Gonzalez

**HB 1829:** Relating to safe patient handling and movement practices at hospitals and nursing homes.

**Author:** Rep. Naomi Gonzalez

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