

BILL ANALYSIS

Senate Research Center
84R21862 SCL-F

H.B. 4001
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas recently received approval for a federal Medicaid program called Community First Choice (CFC) that allows the state to provide habilitation and attendant services in the STAR+PLUS Medicaid managed care program. Under CFC, home and community support services agencies (HCSSAs) will be providers of habilitation services. H.B. 4001 adds the definition of habilitation to the HCSSA licensure statute.

H.B. 4001:

- Adds a definition of “habilitation” to the HCSSA licensure statute by referencing the existing definition in Government Code.
- Adds “person-centered” language to ensure consistency with CMS home and community based services requirements.
- Adds language to ensure that individuals who are currently receiving services by certified providers in the 1915(c) waivers that will transition into managed care in 2017 or after will be able to retain their current service providers without disruption.

H.B. 4001 does not:

- Extend licensure to any other provider type.
- Change any service currently delivered under any of the 1915(c) waivers.

H.B. 4001 amends current law relating to the provision of habilitation and certain health care services by a home and community support services agency, authorizes a fee, provides penalties, and requires an occupational license.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 2 (Section 142.0011, Health and Safety Code), SECTION 5 (Section 142.004, Health and Safety Code), SECTION 11 (Section 142.010, Health and Safety Code), and SECTION 12 (Section 142.012, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 142.001, Health and Safety Code, by adding Subdivision (11-c) to define “habilitation” and amending Subdivisions (12) and (23) to redefine “home and community support services agency” and “place of business.”

SECTION 2. Amends Section 142.0011, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 142.0011. SCOPE, PURPOSE, AND IMPLEMENTATION. (a) Adds person-centered service delivery to the components of quality care set forth for purposes of this chapter. Makes nonsubstantive changes.

(b) Makes no change to this subsection.

(c) Requires the Department of Aging and Disability Services (DADS) to protect clients of home and community support services agencies by:

(1)-(3) Makes no change to these subdivisions;

(4) enabling agencies to provide person-centered services that allow clients to maintain the highest possible degree of independence and self-determination; and

(5) Makes no change to this subdivision.

SECTION 3. Amends Section 142.002(a), Health and Safety Code, to prohibit a person, including a health care facility licensed under this code, except as provided by Section 142.003 (Exemptions From Licensing Requirement), from engaging in the business of providing home health, hospice, habilitation, or personal assistance services, or representing to the public that the person is a provider of such services for pay without a home and community support services agency license authorizing the person to perform those services issued by DADS for each place of business from which such services are directed.

SECTION 4. Amends Section 142.003(a), Health and Safety Code, as follows:

(a) Provides that the following persons need not be licensed under this chapter:

(1) and (2) Makes no change to these subdivisions;

(3) a registry that operates solely as a clearinghouse to put consumers in contact with persons who provide home health, hospice, habilitation, or personal assistance services and that does not maintain official client records, direct client services, or compensate the person who is providing the service;

(4) Makes no change to this subdivision;

(5) an employee of a person licensed under this chapter who provides home health, hospice, habilitation, or personal assistance services only as an employee of the license holder and who receives no benefit for providing the services, other than wages from the license holder;

(6)-(18) Makes no change to these subdivisions;

(19) a person that provides home health, hospice, habilitation, or personal assistance services only to persons receiving benefits under:

(A) and (B) Makes no change to these paragraphs;

(C) the STAR + PLUS or other Medicaid managed care program under the program's HCS or TxHmL certification; or

(D) Creates this paragraph from existing Paragraph (c) and makes no further change to this paragraph; or

(20) Makes no change to this subdivision.

SECTION 5. Amends Sections 142.004(a) and (c), Health and Safety Code, to conform to S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and further amends them, as follows:

(a) Requires an applicant for a license to provide home health, hospice, habilitation, or personal assistance services to:

(1)-(3) Makes no change to these subdivisions.

(c) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) by rule to require that, at a minimum, before DADS may approve a license application, the applicant must provide to DADS:

(1)-(3) Makes no change to these subdivisions;

(4) Makes a conforming change;

(5)-(7) Makes no change to these subdivisions.

SECTION 6. Amends Sections 142.006(a) and (g), Health and Safety Code, to conform to S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, and further amends them, as follows:

(a) Requires DADS to issue a home and community support services agency license to provide home health, hospice, habilitation, or personal assistance services for each place of business to an applicant if:

(1) and (2) Makes no change to these subdivisions.

(g) Requires that the license designate the types of services that the home and community support services agency is authorized to provide at or from the designated place of business. Provides that the types of services that may be designated include dialysis and habilitation.

SECTION 7. Amends Sections 142.009(b) and (c), Health and Safety Code, as follows:

(b) Requires a home and community support services agency to provide each person who receives home health, hospice, habilitation, or personal assistance services with a written statement that contains the name, address, and telephone number of DADS and a statement that informs the recipient that a complaint against a home and community support services agency may be directed to DADS.

(c) Makes conforming changes.

SECTION 8. Amends Sections 142.0091(a) and (b), Health and Safety Code, as follows:

(a) Requires DADS to provide specialized training to representatives of DADS who survey home and community support services agencies. Adds information relating to the provision of person-centered services to the information the training is required to include. Makes nonsubstantive changes.

(b) Requires DADS, in developing and updating the training required by Subsection (a), to consult with and include providers of home health, hospice, habilitation, and personal assistance services, recipients of those services and their family members, and representatives of appropriate advocacy organizations.

SECTION 9. Amends Section 142.0092(a), Health and Safety Code, to require DADS to maintain records or documents relating to complaints directed to DADS by consumers of home health, hospice, habilitation, or personal assistance services and makes no further change.

SECTION 10. Amends Section 142.0093(a), Health and Safety Code, to prohibit a person licensed under this chapter from retaliating against another person for filing a complaint, presenting a grievance, or providing in good faith information relating to home health, hospice, habilitation, or personal assistance services provided by the license holder.

SECTION 11. Amends Section 142.010(a), Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to require the executive commissioner by rule to set license fees for home and community support services agencies in amounts that are reasonable to meet the costs of administering this chapter, except prohibits the fees from being

less than \$600 or more than \$2,000 for a license to provide home health, hospice, habilitation, or personal assistance services.

SECTION 12. Amends Sections 142.012(b) and (e), Health and Safety Code, as follows:

(b) Requires the executive commissioner by rule to set minimum standards for home and community support services agencies licensed under this chapter that relate to any other aspects of home health, hospice, habilitation, or personal assistance services as necessary to protect the public and makes no further change to this subsection.

(e) Requires DADS to require each person or home and community support services agency providing home health, hospice, habilitation, or personal assistance services to implement and enforce the applicable provisions of Chapter 102 (Rights of the Elderly), Human Resources Code.

SECTION 13. Amends Section 142.014(a), Health and Safety Code, as follows:

(a) Provides that a person who engages in the business of providing home health, hospice, habilitation, or personal assistance service, or represents to the public that the person is a provider of home health, hospice, habilitation, and personal assistance services for pay, without a license issued under this chapter authorizing the services that are being provided is liable for a civil penalty of not less than \$1,000 or more than \$2,500 for each day of violation. Makes no further change to this subsection.

SECTION 14. Amends Section 142.017(a), Health and Safety Code, to authorize DADS to assess an administrative penalty against a person who violates this chapter or a rule adopted under this chapter or Section 102.001 (Soliciting Patients; Offense), Occupations Code, if the violation relates to the provision of home health, hospice, habilitation, or personal assistance services.

SECTION 15. (a) Requires the executive commissioner to adopt the rules necessary to implement the changes in law made by this Act not later than December 1, 2015.

(b) Provides that, notwithstanding Section 142.017 (Administrative Penalty), Health and Safety Code, as amended by this Act, a person is not required to hold a license under Chapter 142 (Home and Community Support Services), Health and Safety Code, to engage in the business of habilitation services until January 1, 2016.

SECTION 16. Effective date: September 1, 2015.