

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 371  
By: Brown  
Criminal Justice  
4/6/1999  
Committee Report (Substituted)

### **DIGEST**

Currently, under Texas law, the Correctional Managed Health Care Advisory Committee oversees contracts for prison health services on behalf of the Texas Department of Criminal Justice. Created in 1993, this committee is subject to the Sunset Act and will be abolished on September 1, 1999 unless continued by the legislature. This bill provides for the continuation and the functions of the Correctional Managed Health Care Advisory Committee.

### **PURPOSE**

As proposed, C.S.S.B. 371 provides for the continuation and the functions of the Correctional Managed Health Care Advisory Committee.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 501, Government Code, by adding Subchapter E, as follows:

#### SUBCHAPTER E. MANAGED HEALTH CARE

Sec. 501.131. DEFINITION. Defines "committee."

Sec. 501.132. APPLICATION OF THE SUNSET ACT. Provides that the Correctional Managed Health Care Committee (committee) is subject to Chapter 325 (Texas Sunset Act). Provides that unless continued in existence as provided by that chapter, the committee is abolished and this subchapter expires September 1, 2005.

Sec. 501.133. COMMITTEE MEMBERSHIP. Sets forth the composition of the nine appointed members of the committee. Requires an appointment to the committee to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 501.134. PUBLIC MEMBER ELIGIBILITY. Prohibits a person from being a public member of the committee if the person or the person's spouse has certain inherent business or financial conflicts from the spousal relationship.

Sec. 501.135. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. Defines "Texas trade association." Prohibits a person from being a committee member or a committee employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for the purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments if the person or the person's spouse is an officer, employee, or paid consultant of a Texas trade association in the field of health care or health care services. Prohibits a person from being a committee member or act as general counsel to the committee if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the committee.

Sec. 501.136. TERMS OF OFFICE. Sets forth the terms of office for the committee members appointed by the governor. Provides that other committee members serve at the will of the

appointing official or until termination of the member's employment with the entity the member represents.

Sec. 501.137. **PRESIDING OFFICER.** Requires the governor to designate a physician member of the committee as presiding officer who serves in that capacity at the will of the governor.

Sec. 501.138. **GROUND FOR REMOVAL.** Sets forth the grounds for removal for a committee member. Provides that the validity of a committee action is not affected by the fact that it is taken when a ground for removal of a committee member exists. Requires the managed health care administrator to notify the presiding officer of the committee if the administrator has knowledge a potential ground for removal exists. Requires the administrator to notify the next highest ranking committee officer, if the potential ground for removal involves the presiding officer, who then is required to notify the governor and the attorney general that a potential ground for removal exists.

Sec. 501.139. **MEETINGS.** Requires the committee to meet at least once each quarter of the calendar year and at any other time at the call of the presiding officer. Authorizes the committee to hold a meeting by telephone conference call or other video or broadcast technology.

Sec. 501.140. **TRAINING.** Prohibits a person who is appointed to and qualifies for office as a committee member from voting, deliberating, or being counted a member in attendance at a committee meeting until the person completes a training program that complies with this section. Requires the training program to contain certain information. Provides that a person appointed to the committee is entitled to certain travel expenses incurred in attending the training program regardless of when the training occurs.

Sec. 501.141. **COMPENSATION, REIMBURSEMENT.** Provides that a committee member serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred in the performance of committee duties.

Sec. 501.142. **ADMINISTRATION; PERSONNEL.** Authorizes the committee to hire a managed health care administrator, who may employ personnel necessary for the administration of the committee's duties. Requires the committee to pay the necessary costs for the operation of the committee from funds appropriated by the legislature to the Texas Department of Criminal Justice (TDCJ) for correctional health care.

Sec. 501.143. **DIVISION OF RESPONSIBILITIES.** Requires the committee to develop and implement policies that clearly separate the policy making responsibilities of the committee and the management responsibilities of the managed health care administrator and staff of the committee.

Sec. 501.144. **QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION.** Requires the managed health care administrator or the administrator's designee to provide to committee members and to committee employees, as often as necessary, information regarding the requirements for office or employment under this subchapter.

Sec. 501.145. **EQUAL EMPLOYMENT OPPORTUNITY POLICY.** Requires the managed health care administrator or the administrator's designee to prepare and maintain a written policy statement that implements a program of equal employment opportunity. Requires the policy statement to include certain personnel policies and an analysis of the extent to which the committee's personnel is in accordance with the law and a description of reasonable methods to achieve compliance with the law. Requires certain actions to be taken with regard to the policy statement.

Sec. 501.146. **MANAGED HEALTH CARE PLAN.** Requires the committee to develop a managed health care plan for all persons confined by TDCJ that includes certain information. Authorizes The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center, for employees who are entitled to retain salary and benefits applicable to employees of TDCJ under Section 9.01, Chapter 238, Acts of the 73rd Legislature, Regular Session, 1993, to administer, offer, and report through their payroll systems participation by those employees in the Texas employees uniform group insurance benefits program and the Employees

Retirement System of Texas, to implement the managed health care plan.

Sec. 501.147. COMMITTEE AUTHORITY TO CONTRACT. Authorizes the committee to enter into a contract on behalf of TDCJ to fully implement the managed health care plan under this subchapter. Authorizes the committee, in addition to providing services to TDCJ, to contract with other governmental entities for similar health care services and integrate those services into the managed health care provider network. Requires the committee, in contracting for implementation of the managed health care plan, to the extent possible, to integrate the managed health care provider network with the public schools of this state and the component and affiliated hospitals of those medical schools. Requires the committee to initiate a competitive bidding process for contracts with other providers for medical care to persons confined by TDCJ for services that the public medical schools and their components and affiliates cannot provide.

Sec. 501.148. GENERAL POWERS AND DUTIES OF COMMITTEE. Requires the committee to perform certain duties. Requires the committee to evaluate and recommend to the Texas Board of Criminal Justice sites for new medical facilities. Authorizes the committee to contract with an individual for financial consulting services and make use of financial monitoring of the managed health care plan to assist the committee in determining an accurate capitation rate. Authorizes the committee to contract with an individual for actuarial consulting services to assist the committee in determining trends in the health of the inmate population and the impact of those trends on future financial needs.

Sec. 501.149. QUALITY OF CARE MONITORING BY THE DEPARTMENT AND HEALTH CARE PROVIDERS. Requires the committee to establish a procedure for monitoring the quality of care delivered by the health care providers. Requires TDCJ's monitoring activities, under the procedure, to be limited to investigating medical grievances, ensuring access to medical care, and conducting periodic operational reviews of medical care provided at its units. Requires TDCJ and the medical care providers to cooperate in monitoring quality of care. Requires the clinical and professional resources of the health care providers to be used to the greatest extent feasible for clinical oversight of quality of care issues. Requires TDCJ and the medical care providers to communicate the results of their monitoring activities to the committee.

Sec. 501.150. COMPLAINTS. Requires the committee to maintain a file on each written complaint filed with the committee. Requires the file to include certain information. Requires the committee to provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the committee's policies and procedures relating to complaint investigation and resolution. Requires the committee, at least quarterly until final disposition of the complaint, to notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation, unless the notice would jeopardize an undercover investigation.

Sec. 501.151. PUBLIC PARTICIPATION. Requires the committee to develop and implement policies that provide the public with a reasonable opportunity to appear before the committee and to speak on any issue under the jurisdiction of the committee.

SECTION 2. Repealer: Section 501.059, Government Code (Correctional Managed Health Care Advisory Committee).

SECTION 3. Provides that the name of the Correctional Managed Health Care Advisory Committee is changed to the Correctional Managed Health Care Committee. Provides that the change in the name of the committee does not affect the validity of any action taken by the committee before, on, or after the effective date of this Act. Provides that a reference in law to the Correctional Managed Health Care Advisory Committee means the Correctional Managed Health Care Committee.

SECTION 4. Requires the governor to make initial gubernatorial appointments to the committee, no later than January 1, 2000, and requires the governor to designate one member for a term expiring January 31, 2001, one member for a term expiring January 31, 2003, and one member for a term expiring January 31, 2005.

SECTION 5. Effective date: September 1, 1999.

SECTION 6. Emergency clause.

## **SUMMARY OF COMMITTEE CHANGES**

### SECTION 1.

Amends Section 501.142, Government Code, to authorize the committee to hire a managed health care administrator, who may employ personnel necessary for the administration of the committee's duties. Requires the committee to pay the necessary costs for the operation of the committee from funds appropriated by the legislature to TDCJ for correctional health care. Deletes text requiring TDCJ to pay the necessary costs for the operation of the committee from funds appropriated the legislature.

Amends Section 501.148, Government Code, to authorize, rather than require, the committee to contract with an individual for financial consulting services and make use of financial monitoring of the managed health care plan to assist the committee in determining an accurate capitation rate. Authorizes, rather than requires, the committee to contract with an individual for actuarial consulting services to assist the committee in determining trends in the health of the inmate population and the impact of those trends on future financial needs.

Amends Section 501.149, Government Code, to require the committee, rather than TDCJ, to establish a procedure for monitoring the quality of care delivered by the health care providers. Requires TDCJ's monitoring activities, under the procedure, to be limited to investigating medical grievances, ensuring access to medical care, and conducting periodic operational reviews of medical care provided at its units. Requires TDCJ and the medical care providers to communicate the results of their monitoring activities to the committee.