

BILL ANALYSIS

C.S.H.B. 175
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Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to a recent report by the U.S. Department of Veterans Affairs (VA), it has been estimated that approximately 10 percent of the military veteran population has some type of combat-related injury or disorder, such as traumatic brain injury or post-traumatic stress disorder. These injuries and disorders are often invisible and can cause symptoms such as headaches, confusion, memory loss, fatigue, insomnia, and depression. Such symptoms, if not treated properly, can have a serious impact on a veteran's quality of life. Taking into account that Texas is home to over one million veterans, concerned parties note that these conditions are a significant health issue for a large number of veterans in Texas returning from service overseas.

Citing the increased rate of suicide and attempted suicide among veterans, the parties assert that many of the treatments approved and provided by the VA for these conditions are often drugs, which may have serious side effects and only serve to mask the symptoms without curing the underlying issues. The parties point to hyperbaric oxygen treatment as an effective treatment for these conditions, stressing that the treatment has demonstrated long-term improvement in cognitive function and quality of life. C.S.H.B. 175 seeks to establish a pilot program that would help provide hyperbaric oxygen treatment, as well as other services, to veterans in Texas.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 175 amends the Health and Safety Code to require the Department of State Health Services (DSHS) to establish and operate the Veterans Recovery Pilot Program to provide diagnostic services, hyperbaric oxygen treatment, and support services to eligible veterans who have post-traumatic stress disorder or a traumatic brain injury. The bill authorizes the commissioner of state health services to appoint an advisory board to assist DSHS in developing the pilot program. The bill requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt rules to implement the pilot program, including certain standards for veteran and facility eligibility under the pilot program and standards to ensure patient confidentiality is protected under the pilot program.

C.S.H.B. 175 establishes the veterans recovery account as a dedicated account in the general revenue fund consisting of gifts, grants, and other donations received for the account and interest earned on the investment of money in the fund. The bill exempts the account from certain

Government Code provisions relating to claims from available money. The bill requires the commissioner of state health services to administer the account and restricts the use of money in the account to paying for expenses of administering the pilot program, diagnostic testing and treatment under the pilot program, and travel and living expenses for certain veterans receiving treatment under the pilot program. The bill requires the commissioner of state health services to seek reimbursement for payments made under the pilot program from the Medicaid and Medicare programs, the U.S. Department of Defense TRICARE program, appropriate federal agencies, and any other responsible third-party payor.

C.S.H.B. 175 requires the executive commissioner of HHSC by rule to adopt standards for the provision of hyperbaric oxygen treatment under the pilot program to veterans who have been diagnosed with post-traumatic stress disorder or a traumatic brain injury, have been prescribed such treatment by a health care practitioner, and voluntarily agree to treatment under the pilot program. The bill authorizes a facility providing medical care to an eligible veteran under the pilot program to apply for reimbursement for treatment under the pilot program. The bill requires the facility, before providing treatment under the pilot program, to submit a treatment plan to DSHS that includes a prescription order for hyperbaric oxygen treatment issued by a health care practitioner, verification of facility and veteran eligibility, an estimate of the treatment costs, an estimate of the veteran's necessary travel and living expenses for a veteran required to travel to obtain the treatment, and any other information required by DSHS. The bill sets out requirements relating to the approval or disapproval of a treatment plan submitted to DSHS and requires DSHS, if there is sufficient money in the veterans recovery account, to approve each treatment plan that meets the requirements and standards of the pilot program. The bill requires the commissioner of state health services to reserve in the veterans recovery account an amount equal to the estimated treatment costs and necessary travel and living expenses specified in the treatment plan for each veteran that is approved for treatment under the pilot program.

C.S.H.B. 175 authorizes a facility to provide hyperbaric oxygen treatment under the pilot program to an eligible veteran for whom DSHS has approved a treatment plan and requires a facility that elects to provide that treatment to provide the treatment without charge to the veteran. The bill specifies that a veteran receiving treatment under the pilot program is not liable for the cost of treatment or expenses incurred under the pilot program and authorizes a facility to submit to DSHS a request for reimbursement from the veterans recovery account for such expenses. The bill requires a facility that elects to provide treatment under the pilot program to submit to DSHS regular reports of the veteran's measured health improvements under the treatment plan. The bill establishes the conditions for reimbursement of treatment expenses under the pilot program and specifies that, if expenses for the treatment exceed the amount of funds reserved for the treatment, the state and the veterans recovery account are not liable for the amount in excess of the reserved funds. The bill authorizes a facility to submit an updated treatment plan to request the reservation of funds in addition to funds reserved under the original treatment plan. The bill requires the commissioner of state health services to reimburse a veteran required to travel to obtain treatment under the pilot program for the travel and living expenses approved by DSHS in the treatment plan from money in the veterans recovery account but not in an amount that exceeds the amount reserved for such expenses.

C.S.H.B. 175 requires DSHS, if the facility or veteran fails to request reimbursement for treatment or for travel and living expenses under the pilot program for at least six months following the conclusion of treatment, to notify the facility and the veteran receiving treatment under the facility's treatment plan that the funding reserved for the treatment and expenses will be terminated on the 90th day after the date DSHS provides the notice unless the facility or veteran notifies DSHS of continued treatment and expenses under the pilot program or requests reimbursement for the treatment already provided or expenses already incurred under the pilot program. The bill requires the commissioner of state health services, if the facility or veteran fails to provide timely notification of continued treatment and expenses, to terminate the reservation of funds in the veterans recovery account under the facility's treatment plan for that veteran.

C.S.H.B. 175 requires DSHS, not later than October 1 of each even-numbered year, to submit to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature a report regarding the pilot program that includes an evaluation of the effectiveness of the pilot program and the number of veterans and facilities participating in the pilot program. The bill's provisions relating to the pilot program expire September 1, 2021, and any remaining balance in the veterans recovery account on that date is transferred to the general revenue fund. The bill requires the executive commissioner of HHSC to adopt the rules necessary to implement the pilot program not later than January 1, 2016.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 175 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill and does not indicate differences relating to changes made by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, which became effective April 2, 2015.

INTRODUCED

SECTION 1. Subtitle B, Title 2, Health and Safety Code, is amended by adding Chapter 49 to read as follows:

CHAPTER 49. VETERANS RECOVERY PROGRAM

Sec. 49.001. DEFINITIONS. In this chapter:

- (1) "Commissioner" means the commissioner of state health services.
- (2) "Department" means the Department of State Health Services.
- (3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.
- (4) "Facility" includes a hospital, public health clinic, outpatient health clinic, community health center, and any other facility authorized under department rules to provide hyperbaric oxygen treatment under this chapter.
- (5) "Health care practitioner" means a person who is licensed to provide medical or other health care in this state and who has prescriptive authority, including a physician.
- (6) "Hyperbaric oxygen treatment" means treatment for traumatic brain injury or post-traumatic stress disorder prescribed by a health care practitioner and delivered in:
 - (A) a hyperbaric chamber approved by the United States Food and Drug Administration; or

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle B, Title 2, Health and Safety Code, is amended by adding Chapter 49 to read as follows:

CHAPTER 49. VETERANS RECOVERY PILOT PROGRAM

Sec. 49.001. DEFINITIONS. In this chapter:

- (1) "Facility" includes a hospital, public health clinic, outpatient health clinic, community health center, and any other facility authorized under department rules to provide hyperbaric oxygen treatment under this chapter.
- (2) "Health care practitioner" means a person who is licensed to provide medical or other health care in this state and who has prescriptive authority, including a physician.
- (3) "Hyperbaric oxygen treatment" means treatment for traumatic brain injury or post-traumatic stress disorder prescribed by a health care practitioner and delivered in:
 - (A) a hyperbaric chamber approved by the United States Food and Drug Administration; or

(B) a hyperbaric oxygen device that is approved by the United States Food and Drug Administration for investigational use under the direction of an institutional review board with a national clinical trial number.

(7) "Physician" means a person licensed to practice medicine by the Texas Medical Board.

(8) "Program" means the Veterans Recovery Program established under this chapter.

(9) "Traumatic brain injury" means an acquired injury to the brain. The term does not include brain dysfunction caused by congenital or degenerative disorders or birth trauma.

(10) "Veteran" means an individual who has served in:

(A) the army, navy, air force, coast guard, or marine corps of the United States;

(B) the state military forces as defined by Section 431.001, Government Code; or

(C) an auxiliary service of one of those branches of the armed forces.

Sec. 49.002. ESTABLISHMENT AND OPERATION OF PROGRAM. (a) The department shall establish and operate the Veterans Recovery Program to provide diagnostic services, hyperbaric oxygen treatment, and support services to eligible veterans who have post-traumatic stress disorder or a traumatic brain injury.

(b) The commissioner may appoint an advisory board to assist the department in developing the program.

Sec. 49.003. RULES. The executive commissioner shall adopt rules to implement this chapter, including standards for veteran and facility eligibility under the program and standards to ensure patient confidentiality is protected under the program. The standards must require that:

(1) eligible facilities comply with applicable fire codes, oversight requirements, and any treatment protocols provided in department rules; and

(2) eligible participants in the program reside in this state.

Sec. 49.004. VETERANS RECOVERY ACCOUNT. (a) The veterans recovery account is a dedicated account in the general

(B) a hyperbaric oxygen device that is approved by the United States Food and Drug Administration for investigational use under the direction of an institutional review board with a national clinical trial number.

(4) "Physician" means a person licensed to practice medicine by the Texas Medical Board.

(5) "Pilot program" means the Veterans Recovery Pilot Program established under this chapter.

(6) "Traumatic brain injury" means an acquired injury to the brain. The term does not include brain dysfunction caused by congenital or degenerative disorders or birth trauma.

(7) "Veteran" means an individual who has served in:

(A) the army, navy, air force, coast guard, or marine corps of the United States;

(B) the state military forces as defined by Section 431.001, Government Code; or

(C) an auxiliary service of one of those branches of the armed forces.

Sec. 49.002. ESTABLISHMENT AND OPERATION OF PILOT PROGRAM. (a) The department shall establish and operate the Veterans Recovery Pilot Program to provide diagnostic services, hyperbaric oxygen treatment, and support services to eligible veterans who have post-traumatic stress disorder or a traumatic brain injury.

(b) The commissioner may appoint an advisory board to assist the department in developing the pilot program.

Sec. 49.003. RULES. The executive commissioner shall adopt rules to implement this chapter, including standards for veteran and facility eligibility under the pilot program and standards to ensure patient confidentiality is protected under the pilot program. The standards must require that:

(1) eligible facilities comply with applicable fire codes, oversight requirements, and any treatment protocols provided in department rules; and

(2) eligible participants in the pilot program reside in this state.

Sec. 49.004. VETERANS RECOVERY ACCOUNT. (a) The veterans recovery account is a dedicated account in the general

revenue fund.

(b) The veterans recovery account consists of:

(1) appropriations of money to the account by the legislature;

(2) gifts, grants, and other donations received for the account;

(3) reimbursement received from the Medicaid and Medicare programs, the TRICARE program of the United States Department of Defense, the federal government, or a third party payor for treatment rendered under the program; and

(4) interest earned on the investment of money in the fund.

(c) Section 403.071, Government Code, does not apply to the veterans recovery account.

(d) The commissioner shall administer the account. Money in the account may be used only to pay for:

(1) expenses of administering the program;

(2) diagnostic testing and treatment of a veteran with post-traumatic stress disorder or a traumatic brain injury under the program; and

(3) a veteran's necessary travel and living expenses for a veteran required to travel to obtain treatment under the program.

(e) The commissioner shall seek reimbursement for payments made under the program from the Medicaid and Medicare programs, the TRICARE program of the United States Department of Defense, appropriate federal agencies, and any other responsible third party payor.

Sec. 49.005. HYPERBARIC OXYGEN TREATMENT; RESERVATION OF FUNDS. (a) The executive commissioner by rule shall adopt standards for the provision of hyperbaric oxygen treatment under the program to veterans who have been diagnosed with post-traumatic stress disorder or a traumatic brain injury, have been prescribed hyperbaric oxygen treatment by a health care practitioner, and voluntarily agree to treatment under the program.

(b) A facility providing medical care to a veteran who is eligible for hyperbaric oxygen treatment under the program may apply for reimbursement for treatment under the program.

revenue fund.

(b) The veterans recovery account consists of:

(1) gifts, grants, and other donations received for the account; and

(2) interest earned on the investment of money in the fund.

(c) Section 403.071, Government Code, does not apply to the veterans recovery account.

(d) The commissioner shall administer the veterans recovery account. Money in the account may be used only to pay for:

(1) expenses of administering the pilot program;

(2) diagnostic testing and treatment of a veteran with post-traumatic stress disorder or a traumatic brain injury under the pilot program; and

(3) a veteran's necessary travel and living expenses for a veteran required to travel to obtain treatment under the pilot program.

(e) The commissioner shall seek reimbursement for payments made under the pilot program from the Medicaid and Medicare programs, the TRICARE program of the United States Department of Defense, appropriate federal agencies, and any other responsible third party payor.

Sec. 49.005. HYPERBARIC OXYGEN TREATMENT; RESERVATION OF FUNDS. (a) The executive commissioner by rule shall adopt standards for the provision of hyperbaric oxygen treatment under the pilot program to veterans who have been diagnosed with post-traumatic stress disorder or a traumatic brain injury, have been prescribed hyperbaric oxygen treatment by a health care practitioner, and voluntarily agree to treatment under the pilot program.

(b) A facility providing medical care to a veteran who is eligible for hyperbaric oxygen treatment under the pilot program may apply for reimbursement for treatment under the pilot program.

(c) The facility must submit a treatment plan to the department before providing treatment under the program. The treatment plan must include:

(1) a prescription order for hyperbaric oxygen treatment issued by a health care practitioner;

(2) verification of facility and veteran eligibility;

(3) an estimate of the treatment costs and of the veteran's necessary travel and living expenses for a veteran required to travel to obtain the treatment; and

(4) any other information required by the department.

(d) The department shall approve or disapprove a treatment plan within a reasonable time as established by department rule. The department shall notify the facility whether the treatment plan was approved or disapproved by the department.

(e) The department may not approve the provision of hyperbaric oxygen treatment under the program unless the facility is in compliance with applicable department standards and rules and the veteran is eligible for treatment under the program.

(f) If there is sufficient money in the veterans recovery account, the department shall approve each treatment plan that meets the requirements of this section and the standards adopted under this chapter.

(g) The commissioner shall reserve in the veterans recovery account an amount equal to the estimated treatment costs and necessary travel and living expenses specified in the treatment plan for each veteran that is approved for treatment under the program.

Sec. 49.006. PROVISION OF SERVICES; REIMBURSEMENT. (a) A facility may provide hyperbaric oxygen treatment under the program to a veteran who has post-traumatic stress disorder or a traumatic brain injury if the department approved a treatment plan under Section 49.005 for the veteran.

(b) A facility that elects to provide hyperbaric oxygen treatment to a veteran under Subsection (a) shall provide the treatment without charge to the veteran. A veteran receiving treatment under the

(c) The facility must submit a treatment plan to the department before providing treatment under the pilot program. The treatment plan must include:

(1) a prescription order for hyperbaric oxygen treatment issued by a health care practitioner;

(2) verification of facility and veteran eligibility;

(3) an estimate of the treatment costs and of the veteran's necessary travel and living expenses for a veteran required to travel to obtain the treatment; and

(4) any other information required by the department.

(d) The department shall approve or disapprove a treatment plan within a reasonable time as established by department rule. The department shall notify the facility whether the treatment plan was approved or disapproved by the department.

(e) The department may not approve the provision of hyperbaric oxygen treatment under the pilot program unless the facility is in compliance with applicable department standards and rules and the veteran is eligible for treatment under the pilot program.

(f) If there is sufficient money in the veterans recovery account, the department shall approve each treatment plan that meets the requirements of this section and the standards adopted under this chapter.

(g) The commissioner shall reserve in the veterans recovery account an amount equal to the estimated treatment costs and necessary travel and living expenses specified in the treatment plan for each veteran that is approved for treatment under the pilot program.

Sec. 49.006. PROVISION OF SERVICES; REIMBURSEMENT. (a) A facility may provide hyperbaric oxygen treatment under the pilot program to a veteran who has post-traumatic stress disorder or a traumatic brain injury if the department approved a treatment plan under Section 49.005 for the veteran.

(b) A facility that elects to provide hyperbaric oxygen treatment to a veteran under Subsection (a) shall provide the treatment without charge to the veteran. A veteran receiving treatment under the pilot

program is not liable for the cost of treatment or expenses incurred under the program. The facility may submit to the department a request for reimbursement from the veterans recovery account for expenses incurred for the treatment.

(c) A facility that elects to provide treatment under the program shall submit to the department regular reports, in the form prescribed by the department, of the veteran's measured health improvements under the treatment plan.

(d) The commissioner shall reimburse a facility for expenses the facility incurred in providing the hyperbaric oxygen treatment from the veterans recovery account if:

(1) the treatment was provided according to the treatment plan approved by the department;

(2) the expenses do not exceed the amount reserved for the treatment under Section 49.005; and

(3) the facility demonstrates in the reports described by Subsection (c) that the veteran is making measured health improvements.

(e) If expenses for the treatment exceed funds reserved for the treatment under Section 49.005, the state and the veterans recovery account are not liable for the amount in excess of the reserved funds.

(f) A facility may submit an updated treatment plan under Section 49.005 to request the reservation of funds in addition to funds reserved under the original treatment plan.

(g) From money in the veterans recovery account, the commissioner shall reimburse a veteran required to travel to obtain treatment under the program for the travel and living expenses approved by the department in the treatment plan. The expenses may not exceed the amount reserved for those expenses under Section 49.005.

Sec. 49.007. TERMINATION OF RESERVATION OF FUNDS. (a) If the facility or veteran fails to request reimbursement for treatment or for travel and living expenses under the program for at least six months following the conclusion of treatment, the department shall notify the facility and the veteran receiving treatment under the facility's treatment plan that the funding reserved for the treatment and expenses will be terminated on the 90th day

program is not liable for the cost of treatment or expenses incurred under the pilot program. The facility may submit to the department a request for reimbursement from the veterans recovery account for expenses incurred for the treatment.

(c) A facility that elects to provide treatment under the pilot program shall submit to the department regular reports, in the form prescribed by the department, of the veteran's measured health improvements under the treatment plan.

(d) The commissioner shall reimburse a facility for expenses the facility incurred in providing the hyperbaric oxygen treatment from the veterans recovery account if:

(1) the treatment was provided according to the treatment plan approved by the department;

(2) the expenses do not exceed the amount reserved for the treatment under Section 49.005; and

(3) the facility demonstrates in the reports described by Subsection (c) that the veteran is making measured health improvements.

(e) If expenses for the treatment exceed funds reserved for the treatment under Section 49.005, the state and the veterans recovery account are not liable for the amount in excess of the reserved funds.

(f) A facility may submit an updated treatment plan under Section 49.005 to request the reservation of funds in addition to funds reserved under the original treatment plan.

(g) From money in the veterans recovery account, the commissioner shall reimburse a veteran required to travel to obtain treatment under the pilot program for the travel and living expenses approved by the department in the treatment plan. The expenses may not exceed the amount reserved for those expenses under Section 49.005.

Sec. 49.007. TERMINATION OF RESERVATION OF FUNDS. (a) If the facility or veteran fails to request reimbursement for treatment or for travel and living expenses under the pilot program for at least six months following the conclusion of treatment, the department shall notify the facility and the veteran receiving treatment under the facility's treatment plan that the funding reserved for the treatment and expenses will be

after the date the department provides notice under this subsection unless the facility or veteran notifies the department of continued treatment and expenses under the program or requests reimbursement for the treatment already provided or expenses already incurred under the program.

(b) If a facility or veteran fails to notify the department of continued treatment and expenses in the time required under Subsection (a), the commissioner shall terminate the reservation of funds in the veterans recovery account under the facility's treatment plan for that veteran.

Sec. 49.008. REPORT. Not later than October 1 of each even-numbered year, the department shall submit to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature a report regarding the program that includes an evaluation of the effectiveness of the program and the number of veterans and facilities participating in the program.

SECTION 2. The executive commissioner of the Health and Human Services Commission shall adopt the rules necessary to implement Chapter 49, Health and Safety Code, as added by this Act, not later than January 1, 2016.

SECTION 3. This Act takes effect September 1, 2015.

terminated on the 90th day after the date the department provides notice under this subsection unless the facility or veteran notifies the department of continued treatment and expenses under the pilot program or requests reimbursement for the treatment already provided or expenses already incurred under the pilot program.

(b) If a facility or veteran fails to notify the department of continued treatment and expenses in the time required under Subsection (a), the commissioner shall terminate the reservation of funds in the veterans recovery account under the facility's treatment plan for that veteran.

Sec. 49.008. REPORT. Not later than October 1 of each even-numbered year, the department shall submit to the governor, lieutenant governor, speaker of the house of representatives, and appropriate standing committees of the legislature a report regarding the pilot program that includes an evaluation of the effectiveness of the pilot program and the number of veterans and facilities participating in the pilot program.

Sec. 49.009. EXPIRATION OF CHAPTER. This chapter expires September 1, 2021. Any remaining balance in the veterans recovery account on the expiration of this chapter is transferred to the general revenue fund.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.