

SUBJECT: Voluntary certification for certain private psychiatric treatment facilities

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — Klick, Guerra, Allison, Coleman, Collier, Jetton, Oliverson,
Price, Smith, Zwiener

0 nays

1 absent — Campos

WITNESSES: For — Matthew Lovitt, National Alliance on Mental Illness Texas;
Shelley Becker; Jeffrey Becker; (*Registered, but did not testify*: Garry
McWhorter, Camp Worth; Michaela Bennett, Children's Health; Jamie
McCormick, Texas Alliance of Child and Family Services; Steve Wohleb,
Texas Hospital Association; Clayton Travis, Texas Pediatric Society)

Against — (*Registered, but did not testify*: Lee Spiller, Citizens
Commission on Human Rights)

On — (*Registered, but did not testify*: Jean Shaw, Health and Human
Services Commission)

BACKGROUND: Health and Safety Code ch. 577 governs licensure for private mental
hospitals and other mental health facilities.

Human Resources Code sec. 42.002(4) defines "general residential
operation" as a child-care facility that provides care for at least seven
children for 24 hours a day, including facilities known as residential
treatment centers and emergency shelters.

Interested parties note that while Texas has many licensed residential
treatment centers for teens and adolescents, the centers vary in quality,
and different centers provide care to youth with various behavioral health,
mental health, and substance abuse issues. Suggestions have been made to
establish a voluntary state certification to encourage existing residential

treatment centers that provide psychiatric care to voluntarily meet heightened quality standards and to encourage new high-quality youth psychiatric care facilities to open in Texas.

DIGEST:

CSHB 3121 would require the Health and Human Services Commission (HHSC) to develop and implement a voluntary quality standards certification process for certain psychiatric residential youth treatment facilities.

Under the bill, "psychiatric residential youth treatment facility" would mean a private facility that provided psychiatric health treatments and services in a residential, nonhospital setting exclusively to individuals who were 21 years of age or younger and that met criteria to be licensed as a general residential operation under current law.

The bill also would establish minimum standards for certified facilities, a nonrefundable fee, and authorize civil and administrative penalties.

Exceptions. The bill would not apply to a mental hospital or a private mental hospital or other mental health facility licensed under current law.

The bill also would not affect any licensing or other requirements of a psychiatric residential youth treatment facility under current law.

Certificate application and fee. To obtain a certificate under the bill, an applicant would have to submit to the commission an application accompanied with a nonrefundable fee.

The executive commissioner of HHSC would be required to establish a nonrefundable certificate application fee and a nonrefundable certificate renewal fee in amounts necessary to cover the costs of administering the bill.

Issuance and renewal of certificate. Under the bill, HHSC would have to issue a certificate to an applicant if on inspection and investigation the commission determined the applicant met the bill's requirements and

commission rules.

A certificate would expire on the second anniversary of the date the certificate was issued or renewed.

HHSC would have to renew a certificate if the certificate holder submitted to the commission the required nonrefundable fee and after determining the certificate holder met the bill's requirements and commission rules.

Inspections. The bill would require HHSC to conduct an inspection by the first anniversary of the date a certificate was issued or renewed to ensure the certificate holder remained in compliance with certain requirements and rules.

Minimum standards. Under the bill, the executive commissioner of HHSC by rule would have to establish minimum standards for the certification of psychiatric residential youth treatment facilities. The standards would have to require a facility to obtain accreditation by The Joint Commission, the Commission on Accreditation of Rehabilitation Facilities, the Council on Accreditation, or another accrediting organization approved by HHSC.

The minimum standards also would have to require a facility to provide and prescribe guidelines for certain activities, treatments, and services, including:

- development and implementation of plans of care;
- individual therapy;
- family engagement activities;
- consultation services with qualified professionals, including case managers, primary care professionals, community-based mental health providers, school staff, and other support planners;
- 24-hour nursing services; and
- direct care and supervision services, supportive services for daily living and safety, and positive behavior management services.

Admissions criteria. A certified facility could not admit or provide treatments or services to an individual unless the individual was 21 years old or younger, was diagnosed with a severe emotional disturbance by a licensed mental health professional, required residential psychiatric treatment under the direction of a licensed physician to improve the individual's condition, and was referred for treatments or services in a psychiatric residential youth treatment facility by a licensed health professional.

"Severe emotional disturbance" would be defined as a mental, behavioral, or emotional disorder of sufficient duration to result in functional impairment that substantially interfered with or limited an individual's role or ability to function in family, school, or community activities.

Penalties. A certified facility would be subject to certain civil and administrative penalties for violating the bill's provisions or the commission's rules.

Other provisions. The bill would specify that certified psychiatric residential youth treatment facilities would be exempt from certain licensing requirements.

As soon as practicable after the bill's effective date, the executive commissioner of HHSC would have to adopt rules to implement the bill's provisions.

The bill would take effect September 1, 2021.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about \$4.6 million to general revenue through fiscal 2023.