

CHAPTER 435

S.B. No. 876

An Act relating to the provision of and eligibility for kidney health care services; amending the Texas Kidney Health Care Act, as amended (Article 4477-20, Vernon's Texas Civil Statutes), by amending Sections 3 and 9.2; adding Section 9.3; and repealing Section 9.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 3, Texas Kidney Health Care Act, as amended (Article 4477-20, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 3. For the purpose of administering and carrying out the provisions of this Act, there is hereby created within the Texas [State] Department of Health a Division of Kidney Health Care to be administered by the Texas [State] Board of Health, hereinafter referred to as the board, which is hereby empowered and authorized to:

"(1) Establish and maintain standards for the accreditation of all facilities designed or intended to deliver care or treatment for sufferers from chronic kidney disease;

"(2) Determine the terms, conditions and standards, *including medical and financial standards*, for the eligibility of persons suffering from chronic kidney disease for aid, care or treatment provided under the provisions of this Act;

"(3) Cooperate with private, public, civic, municipal, state or federal agencies to facilitate the availability of adequate care to all citizens suffering from chronic kidney disease;

"(4) Institute and supervise educational programs for the public and for health providers with respect to chronic kidney disease and the prevention and treatment thereof. The board may utilize existing programs and groups for this purpose, whether or not such programs and groups are governmental;

"(5) Assist in the development and expansion of programs for the care and treatment of persons suffering from chronic kidney diseases, including dialysis and other medical procedures and techniques which will have a life-saving effect in the care and treatment of persons suffering from these diseases;

"(6) Institute and carry on educational programs among physicians, hospitals, public health departments, and the public concerning chronic kidney diseases, including the dissemination of information in the conducting of educational programs concerning the prevention, care and treatment of chronic renal diseases and the methods for the care and treatment of persons suffering from these diseases;

"(7) Conduct surveys of all existing facilities within the state having to do with the diagnosis, evaluation and treatment of patients with kidney disease and to prepare and submit its findings and a specific program of action;

"(8) Evaluate the need for the creation of local or regional facilities and for the establishing of a major kidney research center;

"(9) Develop and administer scientific investigations into the cause, prevention, methods of treatment and cure of kidney diseases, including research into transplantation of kidneys;

"(10) Develop techniques for an effective method of mass testing for the detection of kidney diseases and urinary tract infections;

"(11) Report to the Governor of the State of Texas and to the legislature, annually on or before February 1 of each year, its findings, a progress report, its activities carried on under this Act and the state's total need in this area;

"(12) Enter into such contracts and agreements with individuals, colleges, universities, associations, corporations, municipalities and other units of government as may be deemed necessary and advisable to carry out the general intent and purposes of this Act. Such contracts may provide for payment by the state, within the limits of funds available, for material, equipment or services; and

"(13) Promulgate rules and regulations necessary to provide adequate kidney care and treatment for citizens of the State of Texas and to carry out the purposes and intent of this Act."

SECTION 2. Section 9.2, Texas Kidney Health Care Act (Article 4477-20, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 9.2. (a) The department [~~after notice to an applicant or to a recipient and/or a person or persons who have a legal obligation to support the applicant or recipient, for good cause~~] may for cause deny the application of or modify, suspend, or terminate services to an individual who has applied for or is receiving services after notice to the individual and an opportunity for a hearing [~~applicant who has been found to be eligible for services or a recipient who is receiving services from the department~~].

"(b) The [~~criteria for departmental action authorized under this section shall be contained in the department's~~] program rules adopted by the board must contain the criteria for the department's action under this section.

"(c) Sections 13 through 20, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), do not apply to the grant, denial, modification, suspension, or termination of services provided under this Act. Hearings under this Act must be conducted in accordance with the board's hearing rules.

"(d) This section does not apply if program services are restricted to conform to budgetary limitations that require the board to adopt service priorities regarding types of services to be furnished or classes of eligible individuals."

SECTION 3. The Texas Kidney Health Care Act, as amended (Article 4477-20, Vernon's Texas Civil Statutes), is amended by adding Section 9.3 to read as follows:

"Section 9.3. (a) The department shall select providers to furnish kidney health care services in the program according to the criteria and procedures adopted by the board.

"(b) The board shall provide a hearing procedure for the resolution of conflicts between the department and a provider. Sections 13 through 20, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), do not apply to conflict resolution procedures adopted under this section.

"(c) The department may not terminate a contract during the pendency of a hearing under this section. The department may withhold payments during the pendency of a hearing, but the department shall pay the withheld payments and resume contract payments if the final determination is favorable to the provider.

"(d) Subsections (b) and (c) of this section do not apply if a contract expires according to its own terms or if the contract is canceled because program services are restricted to conform to budgetary limitations that require the board to adopt service priorities regarding types of services to be furnished or classes of eligible individuals."

SECTION 4. Section 9, Texas Kidney Health Care Act (Article 4477-20, Vernon's Texas Civil Statutes), is repealed.

SECTION 5. This Act takes effect September 1, 1985.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on May 2, 1985, by the following vote: Yeas 31, Nays 0; passed the House on May 24, 1985, by the following vote: Yeas 147, Nays 1, one present not voting.

69th LEGIS—REGULAR SESSION

CH 437, SEC 1

Approved: June 11, 1985

Effective: September 1, 1985