

CHAPTER 1096

S.B. No. 1439

AN ACT

relating to provision and regulation of certain health care benefits and practices.

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

ARTICLE I. ALTERNATIVE MENTAL HEALTH TREATMENT BENEFITS

SECTION 1.01. Chapter 3, Insurance Code, is amended by adding Article 3.72 to read as follows:

Art. 3.72. ALTERNATIVE MENTAL HEALTH TREATMENT BENEFITS. (a) In this article:

(1) "Crisis stabilization unit" means a 24-hour residential program that is usually short-term in nature and that provides intensive supervision and highly structured

activities to persons who are demonstrating an acute demonstrable psychiatric crisis of moderate to severe proportions.

(2) "Residential treatment center for children and adolescents" means a child-care institution that provides residential care and treatment for emotionally disturbed children and adolescents and that is accredited as a residential treatment center by the Council on Accreditation, the Joint Commission on Accreditation of Hospitals, or the American Association of Psychiatric Services for Children.

(3) "Individual treatment plan" means a treatment plan with specific attainable goals and objectives appropriate to both the patient and the treatment modality of the program.

(b) Subject to the conditions of this article, a group policy of accident and sickness insurance delivered or issued for delivery to a person in this state, including a group policy issued by a group hospital service plan subject to Chapter 20 of this code and a group health care plan provided by a health maintenance organization under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), that provides coverage for treatment of mental or emotional illness or disorder for an insured when confined in a hospital must also include coverage that is not less favorable for treatment in a residential treatment center for children and adolescents or from a crisis stabilization unit.

(c) Coverage provided under this article is subject to the following conditions:

(1) the benefits provided by this article may be used only in situations in which the insured has a serious mental illness which substantially impairs the person's thought, perception of reality, emotional process, or judgment or grossly impairs behavior as manifested by recent disturbed behavior and which would otherwise necessitate confinement in a hospital if such care and treatment were not available through a crisis stabilization unit or residential treatment center for children and adolescents;

(2) the services rendered for which benefits are to be paid must be based on an individual treatment plan;

(3) providers of services for which benefits are to be paid must be licensed or operated by the appropriate state agency or board to provide those services; and

(4) the benefits are subject to the same benefit maximums, durational limits, deductibles, and coinsurance factors that apply to inpatient psychiatric treatment.

(d) Treatment in a residential treatment center for children and adolescents shall be determined as if necessary care and treatment in a residential treatment center for children and adolescents were inpatient care and treatment in a hospital, and each two days of treatment in a residential treatment center for children and adolescents will be considered equal to one day of treatment of mental or emotional illness or disorder in a hospital or inpatient program for the purpose of determining policy benefits and benefit maximums.

(e) Treatment provided through crisis stabilization units shall be determined as if necessary care and treatment through crisis stabilization units were inpatient care and treatment in a hospital, and two days in a crisis stabilization unit are considered equal to one day of treatment of mental or emotional illness or disorder in a hospital or inpatient program for the purpose of determining policy benefits and benefit maximums. Treatment provided through crisis stabilization units shall be reimbursed for facilities licensed or certified by the Texas Department of Mental Health and Mental Retardation.

(f) The State Board of Insurance shall monitor and review the minimum ratios of reimbursement required by Sections (d) and (e) of this article for alternative treatments, and if the board determines that the limits provided by this article are creating an artificial rise in costs of services, the board by rule may adjust the ratios to the extent necessary to prevent this artificial rise in costs of services. Before the board adopts a rule adjusting a ratio of reimbursement, the board shall give notice and hold a hearing to consider the data relating to the adjustment and to determine if that data justifies the adjustment. The first review by the board of ratios of reimbursement under this section must be made before January 1, 1990, and the

board shall make subsequent reviews of the ratios of reimbursement at least every two years after the first review.

(g) *The Texas Department of Mental Health and Mental Retardation shall assist the board in carrying out its responsibilities under this article. To carry out this article, the State Board of Insurance and the Texas Department of Mental Health and Mental Retardation may by rule adopt memoranda of understanding.*

SECTION 1.02. Section 9, Texas Health Maintenance Organization Act, as amended (Article 20A.09, Vernon's Texas Insurance Code), is amended by adding Subsection (h) to read as follows:

(h) *Article 3.72 of the Insurance Code applies to health maintenance organizations to the extent that such article is not in conflict with this Act and to the extent that the residential treatment center or crisis stabilization unit is located within the service area of the health maintenance organization and subject to such inspection and review as required by this Act or the rules hereunder.*

ARTICLE II. MEDICAL RADIOLOGIC TECHNOLOGIST CERTIFICATION ACT

SECTION 2.01. SHORT TITLE. This article may be cited as the Medical Radiologic Technologist Certification Act.

SECTION 2.02. PURPOSE. It is the purpose of this Act to protect the health and safety of the people of this state from the harmful effects of excessive radiation used for medical purposes by establishing minimum standards for the certification of medical radiologic technologists.

SECTION 2.03. DEFINITIONS. In this Act:

- (1) "Advisory board" means the Medical Radiologic Technologist Advisory Board.
- (2) "Department" means the Texas Department of Health.
- (3) "Radiologic technology" means the administration of radiation to a person for medical purposes.
- (4) "Radiation" means ionizing radiation in amounts beyond normal background levels from sources such as medical and dental radiologic procedures.
- (5) "Radiologic procedure" means any procedure or article intended for use in the diagnosis of disease or other medical or dental conditions in humans (including diagnostic X-rays or nuclear medicine procedures) or the cure, mitigation, treatment, or prevention of disease in humans that achieves its intended purpose through the emission of radiation.
- (6) "Practitioner" means a doctor of medicine, osteopathy, podiatry, dentistry, or chiropractic who is licensed under the laws of this state and who prescribes radiologic procedures for other persons.
- (7) "Medical radiologic technologist" means a person certified under this Act, other than a practitioner, who, under the direction of a practitioner, intentionally administers radiation to other persons for medical purposes.
- (8) "Certification" means an authorization to administer radiation to a person for medical purposes.
- (9) "General certification" means an authorization to perform radiologic procedures authorized by this Act.
- (10) "Limited certification" means an authorization to perform radiologic procedures that are limited to specific parts of the human body.
- (11) "Temporary certification, general or limited," means an authorization to perform radiologic procedures for a limited period, not to exceed one year.
- (12) "Registered Nurse" means a person licensed by the Board of Nurse Examiners to practice professional nursing.

SECTION 2.04. CREATION OF MEDICAL RADIOLOGIC TECHNOLOGIST ADVISORY BOARD. (a) The Medical Radiologic Technologist Advisory Board is created as an advisory board to the Texas Board of Health. The Texas Board of Health shall appoint 12 members who must have the following qualifications:

- (1) two must be consumers;
- (2) three must be medical radiologic technologists who meet the qualifications for certification under this Act;
- (3) one must be a nuclear medicine technologist;
- (4) one must be a radiation therapy technologist;
- (5) one must be a licensed physician who is a general practitioner or a family practitioner;
- (6) one must be a licensed physician who is a radiologist;
- (7) one must be a chiropractor;
- (8) one must be a medical radiation physicist engaged in the instruction of radiologic technologists; and
- (9) one must be a hospital administrator.

(b) Members are appointed for staggered terms of six years, with four members' terms expiring January 1 of each even-numbered year. If a vacancy occurs on the advisory board, the Texas Board of Health shall appoint a person having the appropriate qualifications to serve the unexpired portion of the term.

(c) The advisory board may adopt rules for the conduct of its activities and may elect a chairman from among its members. The members serve without compensation, but a member of the advisory board is entitled to receive the per diem and travel allowance authorized by the General Appropriations Act for state employees.

(d) The advisory board shall recommend for the consideration of the Texas Board of Health rules to implement standards adopted under this Act and shall recognize existing standards that apply to the scope of practice for both general and limited certifications.

(e) The advisory board shall recommend for the approval of the Texas Board of Health examinations that may be required by rules adopted under this Act.

SECTION 2.05. DUTIES OF TEXAS BOARD OF HEALTH. (a) The Texas Board of Health shall adopt rules establishing:

- (1) minimum standards for issuing, renewing, suspending, and revoking certificates issued under this Act;
- (2) minimum standards for the approval of curricula and programs to train individuals to perform radiologic procedures and for rescinding the approval; and
- (3) minimum standards for the approval of instructors to teach approved curricula or programs to train individuals to perform radiologic procedures and for rescinding the approval.

(b) The Texas Board of Health shall establish different classes of certificates to include all radiologic procedures used in the course and scope of the practice of practitioners licensed in this state. The Texas Board of Health may issue general and limited certificates and general and limited temporary certificates.

(c) When adopting minimum standards for certifying medical radiologic technologists, the Texas Board of Health may establish criteria for issuing a certificate to a person licensed or otherwise registered as a medical radiologic technologist by another state, the American Registry of Radiologic Technologists, the District of Columbia, or a territory of the United States whose requirements for licensure or registration were at the date of licensing or registration substantially equal to the requirements set forth in this Act.

(d) The Texas Board of Health may establish guidelines, which may include requirements for continuing education for medical radiologic technologists, and the Texas Board of Health may prepare and conduct an examination for applicants for a certificate.

(e) The Texas Board of Health may adopt rules necessary to implement this Act.

SECTION 2.06. ADMINISTRATION. The certification program required under this Act shall be administered by the bureau of licensing and certification of the Texas Board of Health.

SECTION 2.07. AUTHORIZATION TO PERFORM PROCEDURE. (a) Except as otherwise provided by this section, to perform a radiologic procedure a person must hold a certificate issued under this Act.

(b) A person is not required to hold a certificate issued under this Act to perform a radiologic procedure if the person is a practitioner and performs the procedure in the course and scope of the profession for which the person holds the license.

(c) A person is not required to hold a certificate issued under this Act to perform radiologic procedures if the person performs the procedures under the instruction or direction of a practitioner if the person and the practitioner are in compliance with rules adopted under Section 2.08 of this Act.

(d) A person who performs a radiologic procedure in a hospital that participates in the federal Medicare program or that is accredited by the Joint Commission on Accreditation of Hospitals and who has received appropriate instruction and training in the use and operation of diagnostic radiologic equipment consistent with either the federal Medicare standards for certification of hospitals or the accreditation standards of the Joint Commission on Accreditation of Hospitals may perform radiologic procedures without a certificate issued under this Act. A hospital that instructs and trains a person in the performance of radiologic procedures shall develop a protocol for the instruction and training.

SECTION 2.08. AGENCY RULES. (a) This section applies to the Texas State Board of Medical Examiners, the Texas Board of Chiropractic Examiners, the Texas State Board of Dental Examiners, the Texas State Board of Podiatry Examiners, and the Board of Nurse Examiners.

(b) Each agency, other than the Board of Nurse Examiners, subject to this section shall adopt rules in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) to regulate the manner in which a licensee of the agency may order, instruct, or direct another person in the performance of radiologic procedures.

(c) Rules adopted under this section must:

(1) require a person, other than a registered nurse, who is not certified under this Act to register with the agency that licenses the practitioner under whom the person performs radiologic procedures;

(2) establish reasonable and necessary fees to cover the administrative costs incurred by the agency in administering a registration program created under this subsection;

(3) establish grounds for the suspension, revocation, or nonrenewal of a registration issued under this subsection;

(4) identify radiologic procedures that are more dangerous or hazardous and may only be performed by a practitioner or by a medical radiologic technologist certified under this Act;

(5) establish safety standards and procedures for the operation of equipment used to perform radiologic procedures; and

(6) establish standards for the training and supervision of the operators of the equipment.

(d) In adopting rules under Subsection (c) of this section, an agency may take into account whether the radiologic procedure will be performed by a registered nurse.

(e) The Board of Nurse Examiners may adopt rules governing registered nurses performing radiologic procedures under Subsections (b) and (d) of Section 2.07 of this Act and shall require registered nurses performing radiologic procedures under Subsection (b) of Section 2.07 to register with the Board of Nurse Examiners and to identify the practitioner ordering those procedures. The board shall notify the agency licensing the practitioner that the nurse has registered with the board.

SECTION 2.09. APPLICATION PROCEDURES; RULES; FEES. (a) Application for certificates shall be made to the department on a form and under rules prescribed by the Texas Board of Health. A nonrefundable application fee determined by the Texas

Board of Health shall accompany the application. Applicants who meet the minimum standards adopted under Section 2.05 of this Act shall be issued a certificate by the department that shall be valid for a period established by the Texas Board of Health.

(b) Applications for approval of curricula and training programs shall be made to the department on forms and under rules prescribed by the Texas Board of Health. Curricula and training programs that meet the minimum standards adopted under Section 2.05 of this Act shall be approved by the department, and such approval may be reviewed annually by the department. The Texas Board of Health may set a fee for approval of curricula and training programs not to exceed the estimated amount that is projected by the department to be required for the evaluation of the curricula or training program.

(c) Applications for approval of instructors shall be made to the department on forms and under rules prescribed by the Texas Board of Health. Instructors who meet the minimum standards adopted under Section 2.05 of this Act shall be approved by the department. That approval may be reviewed annually by the department.

(d) The Texas Board of Health may set fees for examination, certificate issuance, and certificate renewal. The Texas Board of Health shall set the fees in amounts that are reasonable to cover the costs of administering this Act without the use of additional general revenue funds.

SECTION 2.10. DISPOSITION OF FUNDS. All fees received by the department under this Act shall be deposited in the State Treasury to the credit of the General Revenue Fund and may be appropriated only for the administration of this Act.

SECTION 2.11. DISCIPLINARY ACTIONS. (a) The department is authorized to take the following disciplinary actions for the violation of any provisions of this Act or rules adopted under this Act:

- (1) suspension, revocation, or nonrenewal of a certificate; and
- (2) rescission of curriculum, training program, or instructor approval.

(b) The procedure by which the department takes a disciplinary action and the procedure by which a disciplinary action is appealed are governed by department rules for a contested case hearing and by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

SECTION 2.12. NONTRANSFERABILITY OF CERTIFICATE. A certificate issued under this Act is not transferable.

SECTION 2.13. PENALTY. (a) A person who is required to be certified under this Act commits an offense if the person knowingly administers a radiologic procedure to another person without holding a valid certificate issued by the department.

(b) An offense under this section is a Class B misdemeanor.

SECTION 2.14. TERMS OF INITIAL MEMBERS; INITIAL MEETING. (a) Four initial members appointed to the Medical Radiologic Technologist Advisory Board serve for terms expiring January 1, 1990, four initial members serve for terms expiring January 1, 1992, and four initial members serve for terms expiring January 1, 1994. The 12 initial members shall draw lots to determine the lengths of their terms. The Texas Board of Health shall make the initial appointments not later than January 1, 1988.

(b) The advisory board shall hold its initial meeting by January, 1988, to organize, begin work, and set future meeting dates.

ARTICLE III. MISCELLANEOUS PROVISIONS

SECTION 3.01. EFFECTIVE DATE; TRANSITION. (a) This Act takes effect September 1, 1987, except that Sections 2.07 and 2.13 take effect January 1, 1989, and Section 2.09 takes effect January 1, 1988.

(b) Article 3.72, Insurance Code, applies only to policies and contracts delivered, issued for delivery, or renewed on and after January 1, 1988. Policies and contracts delivered, issued for delivery, or renewed before January 1, 1988, are governed by the law as it existed at the time they were delivered, issued, or renewed.

(c) On application on a form prescribed by the Texas Board of Health and on payment of the application fee, that board shall issue a general certificate to practice as a radiologic technologist to a person who:

(1) on September 1, 1987, holds a certificate or other authorization to perform radiologic procedures that was issued by a regulatory program recognized by the board; or

(2) has performed radiologic procedures for not less than two years during the five years preceding September 1, 1987.

(d) On application on a form prescribed by the Texas Board of Health and on payment of the application fee, that board shall issue a limited certificate to practice as a radiologic technologist to a person who has performed radiologic procedures for not less than one year during the five years preceding September 1, 1987.

(e) The Texas State Board of Medical Examiners, the Texas Board of Chiropractic Examiners, the State Board of Dental Examiners, and the Texas State Board of Podiatry Examiners shall adopt rules under Section 2.08 of this Act not later than January 1, 1988.

SECTION 3.02. SEVERABILITY. If any provision of this Act or the application of this Act to any person is held to be invalid, that invalidity does not affect other provisions or applications of this Act that may be given effect without the invalid provision or application, and for that purpose the provisions of this Act are severable.

SECTION 3.03. EMERGENCY. 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 15, 1987, by a viva-voce vote; and that the Senate concurred in House amendments on June 1, 1987, by a viva-voce vote. Passed the House, with amendments, on May 30, 1987, by a non-record vote.

Approved June 20, 1987.

Effective Sept. 1, 1987, except §§ 2.07, 2.13 effective Jan. 1, 1989, § 2.09 effective Jan. 1, 1988.