

## **BILL ANALYSIS**

H.B. 2439  
By: Truitt  
Public Health  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Chapters 533 and 535 of the Health & Safety Code address the roles and responsibilities of local mental health and mental retardation (MHMR) authorities. They were amended by HB 2292, 78<sup>th</sup> legislature to require local mental health and mental retardation authorities to be limited in the services they may provide. Subsequent considerations of the severity of the impact of these changes on the present service delivery structure ultimately led to two negotiations: the first involving private providers and the local mental retardation authorities, and the second involving local mental health authorities and representatives of private providers, consumers, consumer advocates, family members and agency personnel. HB 2439 would place into statute the basic precepts of these two agreements in order to stabilize the operating environments of the local MHMR authorities and ensure open access for both consumers and private providers.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Committee in SECTION 3, SECTION 5 and SECTION 6 of this bill.

### **ANALYSIS**

HB 2439 defines the following terms: commission, executive commissioner, ICF-MR and related waiver programs, section 1915(c) waiver program, and qualified service provider. It clarifies certain aspects of the roles of the executive commissioner of the Health and Human Services Commission (HHSC) and the local MHMR centers.

The bill provides that before the Department of State Health Services (department) institutes a change in payment methodology for certain mental health services, it shall evaluate various forms of payment for services, the effect of each proposed payment methodology on certain issues, determine the implementation and ongoing operational costs for the state and local mental health authorities, develop an implementation plan, with the advice and assistance of the local authority network advisory committee, and report the department's findings and implementation plan to the executive commissioner and the legislature not later than January 1, 2009. The bill establishes that this provision expires September 1, 2009.

The bill requires the local authority to consider public input, ultimate cost-benefit, and client care issues to ensure consumer choice and the best use of public money in procuring services for a local service area, including a request for proposal or open-enrollment procurement method.

A local mental retardation authority may serve as a provider of ICF-MR and related waiver programs only if the local authority complies with certain limitations or the ICF-MR and related waiver programs are necessary to ensure the availability of services and the local authority demonstrates to the commission that there is not a willing ICF-MR and related waiver program qualified service provider in the local authority's service area.

The bill requires the local mental health authorities to develop local network development plans (plans) regarding the configuration and development of its provider network, and to submit the plans to the department for approval. The department is required to review the plans to ensure they contain certain information and to approve them if they comply. The department must also review these plans at least biennially. The bill provides that a local mental health authority may

serve as a provider of last resort only if, through the local network development plan process, the local authority determines that certain parameters apply.

The department is required to establish a best practices clearing house for local mental health authorities, to solicit and collect certain examples of best practices, and is authorized to contract to for certain services. Before the executive commissioner is allowed to remove certain designations of a local mental health authority, the executive commissioner is required to assist the local mental health authority in attaining training and mentorship in using the best practices established and track and document the local mental health authority's improvements in the provision of service or continued service deficiencies.

The executive commissioner is required to establish a Local Authority Network Advisory Committee (committee) to advise the executive commissioner and the department on technical and administrative issues that directly affect local mental health authority responsibilities, and sets forth the composition and duties of the committee. The bill requires the department to provide a written response regarding any of the committee's recommendations, and permits it to reimburse certain committee members for travel expenses incurred in performing their duties. No later than November 1, 2007, the executive commissioner is required to create and appoint the members of the local authority network advisory committee. The committee is abolished on September 1, 2017, unless the executive commissioner adopts a rule for its continuation.

The bill amends the title of Section 533.0355 to Local Mental Retardation Authority Responsibilities Under Certain Medicaid Programs, and deletes references to the waiver program in the section. The executive commissioner is required to adopt rules establishing the roles and responsibilities of the local mental retardation authorities, and in adopting the rules, the executive commissioner must include rules regarding certain enumerated responsibilities.

In determining certain eligibility, a local mental retardation authority must offer a state school as an option among the residential services and other community living options available to certain individuals.

In establishing a local mental retardation authority's role as a qualified service provider of certain programs, the executive commissioner is required to ensure the local mental retardation authority bases its provider capacity on certain criteria, including extenuating circumstances.

The bill requires Department of Aging and Disability Services to ensure that local services delivered further certain goals through reviews, conducted at least biennially, that include reviews of the local authorities status as qualified service providers as well as other considerations.

The executive commissioner, in developing rules governing local mental health authorities is required to use certain procedures or other collaborative processes, include certain representatives, and appoint facilitators to preside over the process.

The bill repeals Sections 533.035(f) and (g) of the Health and Safety Code that calls for the biennial review of the appropriateness of MHMR centers as service providers, as well as the planning and implementation of the privatization of the centers' services.

The various state agencies are also required to determine if a federal waiver is necessary for the implementation of any of the major provisions of this bill and allowed to delay the implementation of provisions of the bill until any necessary waivers are granted. The bill requires HHSC to report to the legislature on the need for any federal waivers, by January 1, 2008, and any other information it finds relevant to the implementation of certain provisions of this bill.

#### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.