

AN ACT

relating to the establishment of a newborn hearing screening, tracking, and intervention program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 2, Health and Safety Code, is amended by adding Chapter 47 to read as follows:

CHAPTER 47. HEARING LOSS IN NEWBORNS

Sec. 47.001. DEFINITIONS. In this chapter:

(1) "Birth admission" means the time after birth that a newborn remains in the birthing facility before the newborn is discharged.

(2) "Birthing facility" means:

(A) a hospital licensed under Chapter 241 that offers obstetrical services and is located in a county with a population of more than 50,000; or

(B) a birthing center licensed under Chapter 244 that is located in a county with a population of more than 50,000 and that has 100 or more births per year.

(3) "Health care provider" means a registered nurse recognized as an advanced practice nurse by the Board of Nurse Examiners or a physician assistant licensed by the Texas State Board of Physician Assistant Examiners.

(4) "Hearing loss" means a hearing loss of 30 dB HL or greater in the frequency region important for speech recognition and comprehension in one or both ears, approximately 500 through 4,000 Hz. As technological advances permit the detection of less severe hearing loss, the department may modify this definition by rule.

(5) "Infant" means a child who is at least 30 days but who is younger than 24 months old.

(6) "Intervention or follow-up care" means the early intervention services described in Part C, Individuals with Disabilities Education Act (20 U.S.C. Sections 1431-1445), as amended by Pub. L. No. 105-17.

(7) "Newborn" means a child younger than 30 days old.

(8) "Parent" means a natural parent, stepparent, adoptive parent, legal guardian, or other legal custodian of a child.

(9) "Physician" means a person licensed to practice medicine by the Texas State Board of Medical Examiners.

(10) "Program" means a newborn hearing screening, tracking, and intervention program certified by the department under this chapter.

Sec. 47.002. APPLICABILITY OF CHAPTER. This chapter does not apply to a facility operated by a midwife as defined by Section

2-22 1, Texas Midwifery Act (Article 4512i, Vernon's Texas Civil
2-23 Statutes).

2-24 Sec. 47.003. NEWBORN HEARING SCREENING, TRACKING, AND
2-25 INTERVENTION PROGRAM. (a) A birthing facility, through a program
2-26 certified by the department under Section 47.004, shall offer the
2-27 parents of a newborn a hearing screening for the newborn for the
3-1 identification of hearing loss. The screening shall be offered
3-2 during the birth admission, and the parents shall be informed that
3-3 information may be provided to the department upon their written
3-4 consent.

3-5 (b) The department or the department's designee shall
3-6 approve program protocols.

3-7 (c) The department may maintain data and information on each
3-8 newborn who receives services under a program.

3-9 (d) The department shall ensure that intervention is
3-10 available to families for a newborn identified as having hearing
3-11 loss and that the intervention is managed by state programs
3-12 operating under the Individuals with Disabilities Education Act (20
3-13 U.S.C. Section 1400 et seq.).

3-14 (e) The department shall ensure that the intervention
3-15 described by Subsection (d) is available for a newborn identified
3-16 as having hearing loss through the time the child is an infant.

3-17 Sec. 47.004. CERTIFICATION OF SCREENING PROGRAMS. (a) The
3-18 department or the department's designee shall establish
3-19 certification criteria for implementing a program.

3-20 (b) In order to be certified, the program must:

3-21 (1) provide hearing screening using equipment
3-22 recommended by the department;

3-23 (2) use appropriate staff to provide the screening;

3-24 (3) maintain and report data electronically as
3-25 required by the department;

3-26 (4) distribute family, health care provider, and
3-27 physician educational materials standardized by the department; and

4-1 (5) provide information, as recommended by the
4-2 department, to the parents on follow-up services for newborns and
4-3 infants with abnormal screening results.

4-4 (c) The department may certify a program that meets and
4-5 maintains the certification criteria.

4-6 (d) The department may renew the certification of a program
4-7 on a periodic basis as established by board rule in order to ensure
4-8 quality services to newborns and families.

4-9 (e) A fee may not be charged to certify or recertify a
4-10 program.

4-11 Sec. 47.005. INFORMATION CONCERNING SCREENING RESULTS AND
4-12 FOLLOW-UP CARE. (a) A birthing facility that operates a program
4-13 shall distribute to the parents of each newborn who is screened
4-14 educational materials that are standardized by the department

4-15 regarding screening results and follow-up care.

4-16 (b) A birthing facility that operates a program shall report
 4-17 screening results to the parents, the newborn's attending physician
 4-18 or health care provider, and the department.

4-19 (c) Appropriate and necessary care for the infant who needs
 4-20 follow-up care should be directed and coordinated by the infant's
 4-21 physician or health care provider, with support from appropriate
 4-22 ancillary services.

4-23 Sec. 47.006. TECHNICAL ASSISTANCE BY DEPARTMENT. The
 4-24 department may consult with a birthing facility and provide to the
 4-25 facility technical assistance associated with the implementation of
 4-26 a certified program.

4-27 Sec. 47.007. INFORMATION MANAGEMENT, REPORTING, AND TRACKING
 5-1 SYSTEM. (a) The department shall provide each birthing facility
 5-2 that provides newborn hearing screening under the state's medical
 5-3 assistance program provided under Chapter 32, Human Resources Code,
 5-4 with the appropriate information management, reporting, and
 5-5 tracking software for the program. The information management,
 5-6 reporting, and tracking system must be capable of providing the
 5-7 department with information and data necessary to plan, monitor,
 5-8 and evaluate the program, including the program's screening,
 5-9 follow-up, diagnostic, and intervention components.

5-10 (b) A qualified hearing screening provider, hospital,
 5-11 audiologist, or intervention specialist may access the information
 5-12 management, reporting, and tracking system to provide information,
 5-13 where available, to the department, including information relating
 5-14 to:

- 5-15 (1) infants who receive follow-up care;
- 5-16 (2) infants identified with hearing loss;
- 5-17 (3) infants who are referred for intervention

5-18 services; and
 5-19 (4) case level information necessary to report
 5-20 required statistics to the Maternal and Child Health Bureau on an
 5-21 annual basis.

5-22 (c) The department shall ensure that the written consent of
 5-23 a parent is obtained before any information individually
 5-24 identifying the newborn or infant is released through the
 5-25 information management, reporting, and tracking system.

5-26 Sec. 47.008. CONFIDENTIALITY AND GENERAL ACCESS TO DATA.

5-27 (a) The information management, reporting, and tracking system
 6-1 provided in accordance with this chapter must meet confidentiality
 6-2 requirements in accordance with required state and federal privacy
 6-3 guidelines.

6-4 (b) Data obtained through the information management,
 6-5 reporting, and tracking system under this chapter are for the
 6-6 confidential use of the department, the department's designee, and

6-7 the persons or public or private entities that the department
 6-8 determines are necessary to carry out the functions of the tracking
 6-9 system.

6-10 (c) The department by rule shall develop guidelines to
 6-11 protect the confidentiality of patients in accordance with Section
 6-12 5.08, Medical Practice Act (Article 4495b, Vernon's Texas Civil
 6-13 Statutes), and require the written consent of a parent or guardian
 6-14 of a patient before any individually identifying information is
 6-15 provided to the department as set out in this chapter. The
 6-16 department shall permit a parent or guardian at any time to
 6-17 withdraw information provided to the department under this chapter.

6-18 Sec. 47.009. IMMUNITY FROM LIABILITY. A birthing facility,
 6-19 a clinical laboratory, an audiologist, a health care provider, a
 6-20 physician, a registered nurse, or any other officer or employee of
 6-21 a birthing facility, a laboratory, a physician, or an audiologist
 6-22 is not criminally or civilly liable for furnishing information in
 6-23 good faith to the department or its designee as required by this
 6-24 chapter. This section does not apply to information gathered and
 6-25 furnished after a parent of a newborn or infant declined screening
 6-26 offered through a program.

6-27 SECTION 2. Section 36.004, Health and Safety Code, is
 7-1 amended by adding Subsection (i) to read as follows:

7-2 (i) A hearing screening performed under this section is in
 7-3 addition to any hearing screening test performed under Chapter 47.

7-4 SECTION 3. Section 32.024, Human Resources Code, is amended
 7-5 by adding Subsection (v) to read as follows:

7-6 (v) The department by rule shall provide a screening test
 7-7 for hearing loss in accordance with Chapter 47, Health and Safety
 7-8 Code, and any necessary diagnostic follow-up care related to the
 7-9 screening test to a child younger than 30 days old who receives
 7-10 medical assistance.

7-11 SECTION 4. Article 21.53F, Insurance Code, as added by
 7-12 Chapter 683, Acts of the 75th Legislature, Regular Session, 1997,
 7-13 is amended by amending Sections 3 and 4 and adding Sections 5, 6,
 7-14 and 7 to read as follows:

7-15 Sec. 3. REQUIRED BENEFIT FOR CHILDHOOD IMMUNIZATIONS. [~~a~~]
 7-16 A health benefit plan that provides benefits for a family member of
 7-17 the insured shall provide coverage for each covered child described
 7-18 by Section 5 of this article [~~Subsection (b) of this section~~], from
 7-19 birth through the date the child is six years of age, for:

7-20 (1) immunization against:

7-21 (A) diphtheria;

7-22 (B) haemophilus influenzae type b;

7-23 (C) hepatitis B;

7-24 (D) measles;

7-25 (E) mumps;

7-26 (F) pertussis;

7-27 (G) polio;
 8-1 (H) rubella;
 8-2 (I) tetanus; and
 8-3 (J) varicella; and
 8-4 (2) any other immunization that is required by law for
 8-5 the child.

8-6 Sec. 4. REQUIRED BENEFITS FOR SCREENING TEST FOR HEARING
 8-7 IMPAIRMENT. (a) A health benefit plan that provides benefits for
 8-8 a family member of the insured shall provide coverage for each
 8-9 covered child described by Section 5 of this article for:

8-10 (1) a screening test for hearing loss from birth
 8-11 through the date the child is 30 days old, as provided by Chapter
 8-12 47, Health and Safety Code; and

8-13 (2) necessary diagnostic follow-up care related to the
 8-14 screening test from birth through the date the child is 24 months
 8-15 old.

8-16 (b) The commissioner may adopt rules to implement the
 8-17 requirement of this section.

8-18 (c) This section applies to any health benefit plan that
 8-19 provides coverage or benefits to a resident of this state, without
 8-20 regard to whether the issuer of the health benefit plan is located
 8-21 within or outside this state. This section does not require the
 8-22 issuer of a health benefit plan to provide coverage under this
 8-23 section for the child of a resident of this state who:

8-24 (1) is employed outside of this state; and

8-25 (2) is covered under a health benefit plan maintained
 8-26 for the individual by the individual's employer as an employment
 8-27 benefit.

9-1 Sec. 5. COVERED CHILDREN. [(b)] A child is entitled to
 9-2 benefits under this article [section] if the child, as a result of
 9-3 the child's relationship to an enrollee in the health benefit plan,
 9-4 would be entitled to benefits under an accident and sickness
 9-5 insurance policy under Subsection (K), (L), or (M), Section 2,
 9-6 Chapter 397, Acts of the 54th Legislature, 1955 (Article 3.70-2,
 9-7 Vernon's Texas Insurance Code).

9-8 Sec. 6 [4]. APPLICATION OF DEDUCTIBLE, COPAYMENT, OR
 9-9 COINSURANCE REQUIREMENT [FIRST DOLLAR COVERAGE REQUIRED]. (a)
 9-10 Benefits required under Section 3 of this article may not be made
 9-11 subject to a deductible, copayment, or coinsurance requirement.
 9-12 This subsection [(b) Subsection (a) of this section] does not
 9-13 prohibit the application of a deductible, copayment, or coinsurance
 9-14 requirement to another service provided at the same time as the
 9-15 immunization.

9-16 (b) Benefits required under Section 4 of this article may be
 9-17 subject to copayment and coinsurance requirements, but may not be
 9-18 subject to a deductible requirement or dollar limit. The

9-19 requirements of this subsection must be stated in the coverage
9-20 document.

9-21 Sec. 7. RULES. The commissioner may adopt rules as
9-22 necessary to implement this article.

9-23 SECTION 5. The heading of Article 21.53F, Insurance Code, as
9-24 added by Chapter 683, Acts of the 75th Legislature, Regular
9-25 Session, 1997, is amended to read as follows:

9-26 Art. 21.53F. COVERAGE FOR CERTAIN BENEFITS FOR CHILDREN
9-27 [~~CHILDHOOD IMMUNIZATIONS~~]

10-1 SECTION 6. (a) This Act takes effect September 1, 1999.

10-2 (b) Not later than May 1, 2000, each birthing facility that
10-3 operates a program with at least 1,000 births in a year shall offer
10-4 newborn hearing screening during the birth admission as provided by
10-5 Section 47.003, Health and Safety Code, as added by this Act.

10-6 (c) Not later than April 1, 2001, each birthing facility
10-7 that operates a program shall offer the hearing screening during
10-8 the birth admission in accordance with Section 47.003, Health and
10-9 Safety Code, as added by this Act.

10-10 SECTION 7. The Texas Board of Health shall adopt the rules
10-11 required by Section 47.004, Health and Safety Code, as added by
10-12 this Act, not later than December 1, 1999.

10-13 SECTION 8. (a) Except as provided by Subsection (b) of this
10-14 section, not later than January 1, 2000, the Health and Human
10-15 Services Commission and each appropriate health and human services
10-16 agency that operates part of the state medical assistance program
10-17 under Chapter 32, Human Resources Code, shall adopt the rules
10-18 required by Section 32.024(v), Human Resources Code, as added by
10-19 this Act.

10-20 (b) If, before implementing Section 32.024(v), Human
10-21 Resources Code, as added by this Act, the Health and Human Services
10-22 Commission determines that a waiver or authorization from a federal
10-23 agency is necessary for implementation, the commission shall
10-24 request the waiver or authorization and may delay implementing that
10-25 provision until the waiver or authorization is granted.

10-26 SECTION 9. The change in law made by Section 4 of this Act
10-27 applies only to a health benefit plan that is delivered, issued for
11-1 delivery, or renewed on or after January 1, 2000. A health benefit
11-2 plan that is delivered, issued for delivery, or renewed before
11-3 January 1, 2000, is governed by the law as it existed immediately
11-4 before the effective date of this Act, and that law is continued in
11-5 effect for that purpose.

11-6 SECTION 10. This Act takes effect only if a specific
11-7 appropriation for the implementation of this Act is provided in
11-8 H.B. No. 1 (General Appropriations Act), Acts of the 76th
11-9 Legislature, Regular Session, 1999. If no specific appropriation
11-10 is provided in H.B. No. 1, the General Appropriations Act, this Act
11-11 has no effect.

11-12 SECTION 11. The importance of this legislation and the
 11-13 crowded condition of the calendars in both houses create an
 11-14 emergency and an imperative public necessity that the
 11-15 constitutional rule requiring bills to be read on three several
 11-16 days in each house be suspended, and this rule is hereby suspended.

President of the Senate

Speaker of the House

I certify that H.B. No. 714 was passed by the House on May 8, 1999, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 714 on May 26, 1999, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 714 was passed by the Senate, with amendments, on May 21, 1999, by a viva-voce vote.

Secretary of the Senate

APPROVED:

Date

Governor