

By: White of Tyler

H.B. No. 390

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of the Veterans Recovery Program to provide certain veterans with hyperbaric oxygen treatment.

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 49 to read as follows:

CHAPTER 49. VETERANS RECOVERY PROGRAM

Sec. 49.001. DEFINITIONS. In this chapter:

(1) "Commissioner" means the commissioner of state health services.

(2) "Department" means the Department of State Health Services.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) "Facility" includes a hospital, public health clinic, outpatient health clinic, community health center, and any other facility authorized under department rules to provide hyperbaric oxygen treatment under this chapter.

(5) "Health care practitioner" means a person who is licensed to provide medical or other health care in this state and who has prescriptive authority, including a physician.

(6) "Hyperbaric oxygen treatment" means treatment for traumatic brain injury or post-traumatic stress disorder prescribed by a health care practitioner and delivered in:

1 (A) a hyperbaric chamber approved by the United
2 States Food and Drug Administration; or

3 (B) a hyperbaric oxygen device that is approved
4 by the United States Food and Drug Administration for
5 investigational use under the direction of an institutional review
6 board with a national clinical trial number.

7 (7) "Physician" means a person licensed to practice
8 medicine by the Texas Medical Board.

9 (8) "Program" means the Veterans Recovery Program
10 established under this chapter.

11 (9) "Traumatic brain injury" means an acquired injury
12 to the brain. The term does not include brain dysfunction caused by
13 congenital or degenerative disorders or birth trauma.

14 (10) "Veteran" means an individual who has served in:

15 (A) the army, navy, air force, coast guard, or
16 marine corps of the United States;

17 (B) the state military forces as defined by
18 Section [431.001](#), Government Code; or

19 (C) an auxiliary service of one of those branches
20 of the armed forces.

21 Sec. 49.002. ESTABLISHMENT AND OPERATION OF PROGRAM. (a)
22 The department shall establish and operate the Veterans Recovery
23 Program to provide diagnostic services, hyperbaric oxygen
24 treatment, and support services to eligible veterans who have
25 post-traumatic stress disorder or a traumatic brain injury.

26 (b) The commissioner may appoint an advisory board to assist
27 the department in developing the program.

1 Sec. 49.003. RULES. The executive commissioner shall adopt
2 rules to implement this chapter, including standards for veteran
3 and facility eligibility under the program and standards to ensure
4 patient confidentiality is protected under the program. The
5 standards must require that:

6 (1) eligible facilities comply with applicable fire
7 codes, oversight requirements, and any treatment protocols
8 provided in department rules; and

9 (2) eligible participants in the program reside in
10 this state.

11 Sec. 49.004. VETERANS RECOVERY ACCOUNT. (a) The veterans
12 recovery account is a dedicated account in the general revenue
13 fund.

14 (b) The veterans recovery account consists of:

15 (1) appropriations of money to the account by the
16 legislature;

17 (2) gifts, grants, and other donations received for
18 the account;

19 (3) reimbursement received from the Medicaid and
20 Medicare programs, the TRICARE program of the United States
21 Department of Defense, the federal government, or a third party
22 payor for treatment rendered under the program; and

23 (4) interest earned on the investment of money in the
24 fund.

25 (c) Section 403.071, Government Code, does not apply to the
26 veterans recovery account.

27 (d) The commissioner shall administer the account. Money in

the account may be used only to pay for:

(1) expenses of administering the program;

(2) diagnostic testing and treatment of a veteran with post-traumatic stress disorder or a traumatic brain injury under the program; and

(3) a veteran's necessary travel and living expenses for a veteran required to travel to obtain treatment under the program.

(e) The commissioner shall seek reimbursement for payments made under the program from the Medicaid and Medicare programs, the TRICARE program of the United States Department of Defense, appropriate federal agencies, and any other responsible third party payor.

Sec. 49.005. HYPERBARIC OXYGEN TREATMENT; RESERVATION OF FUNDS. (a) The executive commissioner by rule shall adopt standards for the provision of hyperbaric oxygen treatment under the program to veterans who have been diagnosed with post-traumatic stress disorder or a traumatic brain injury, have been prescribed hyperbaric oxygen treatment by a health care practitioner, and voluntarily agree to treatment under the program.

(b) A facility providing medical care to a veteran who is eligible for hyperbaric oxygen treatment under the program may apply for reimbursement for treatment under the program.

(c) The facility must submit a treatment plan to the department before providing treatment under the program. The treatment plan must include:

(1) a prescription order for hyperbaric oxygen

1 treatment issued by a health care practitioner;

2 (2) verification of facility and veteran eligibility;

3 (3) an estimate of the treatment costs and of the
4 veteran's necessary travel and living expenses for a veteran
5 required to travel to obtain the treatment; and

6 (4) any other information required by the department.

7 (d) The department shall approve or disapprove a treatment
8 plan within a reasonable time as established by department rule.

9 The department shall notify the facility whether the treatment plan
10 was approved or disapproved by the department.

11 (e) The department may not approve the provision of
12 hyperbaric oxygen treatment under the program unless the facility
13 is in compliance with applicable department standards and rules and
14 the veteran is eligible for treatment under the program.

15 (f) If there is sufficient money in the veterans recovery
16 account, the department shall approve each treatment plan that
17 meets the requirements of this section and the standards adopted
18 under this chapter.

19 (g) The commissioner shall reserve in the veterans recovery
20 account an amount equal to the estimated treatment costs and
21 necessary travel and living expenses specified in the treatment
22 plan for each veteran that is approved for treatment under the
23 program.

24 Sec. 49.006. PROVISION OF SERVICES; REIMBURSEMENT. (a) A
25 facility may provide hyperbaric oxygen treatment under the program
26 to a veteran who has post-traumatic stress disorder or a traumatic
27 brain injury if the department approved a treatment plan under

1 Section 49.005 for the veteran.

2 (b) A facility that elects to provide hyperbaric oxygen
3 treatment to a veteran under Subsection (a) shall provide the
4 treatment without charge to the veteran. A veteran receiving
5 treatment under the program is not liable for the cost of treatment
6 or expenses incurred under the program. The facility may submit to
7 the department a request for reimbursement from the veterans
8 recovery account for expenses incurred for the treatment.

9 (c) A facility that elects to provide treatment under the
10 program shall submit to the department regular reports, in the form
11 prescribed by the department, of the veteran's measured health
12 improvements under the treatment plan.

13 (d) The commissioner shall reimburse a facility for
14 expenses the facility incurred in providing the hyperbaric oxygen
15 treatment from the veterans recovery account if:

16 (1) the treatment was provided according to the
17 treatment plan approved by the department;

18 (2) the expenses do not exceed the amount reserved for
19 the treatment under Section 49.005; and

20 (3) the facility demonstrates in the reports described
21 by Subsection (c) that the veteran is making measured health
22 improvements.

23 (e) If expenses for the treatment exceed funds reserved for
24 the treatment under Section 49.005, the state and the veterans
25 recovery account are not liable for the amount in excess of the
26 reserved funds.

27 (f) A facility may submit an updated treatment plan under

1 Section 49.005 to request the reservation of funds in addition to
2 funds reserved under the original treatment plan.

3 (g) From money in the veterans recovery account, the
4 commissioner shall reimburse a veteran required to travel to obtain
5 treatment under the program for the travel and living expenses
6 approved by the department in the treatment plan. The expenses may
7 not exceed the amount reserved for those expenses under Section
8 49.005.

9 Sec. 49.007. TERMINATION OF RESERVATION OF FUNDS. (a) If
10 the facility or veteran fails to request reimbursement for
11 treatment or for travel and living expenses under the program for at
12 least six months following the conclusion of treatment, the
13 department shall notify the facility and the veteran receiving
14 treatment under the facility's treatment plan that the funding
15 reserved for the treatment and expenses will be terminated on the
16 90th day after the date the department provides notice under this
17 subsection unless the facility or veteran notifies the department
18 of continued treatment and expenses under the program or requests
19 reimbursement for the treatment already provided or expenses
20 already incurred under the program.

21 (b) If a facility or veteran fails to notify the department
22 of continued treatment and expenses in the time required under
23 Subsection (a), the commissioner shall terminate the reservation of
24 funds in the veterans recovery account under the facility's
25 treatment plan for that veteran.

26 Sec. 49.008. REPORT. Not later than October 1 of each
27 even-numbered year, the department shall submit to the governor,

1 lieutenant governor, speaker of the house of representatives, and
2 appropriate standing committees of the legislature a report
3 regarding the program that includes an evaluation of the
4 effectiveness of the program and the number of veterans and
5 facilities participating in the program.

6 SECTION 2. The executive commissioner of the Health and
7 Human Services Commission shall adopt the rules necessary to
8 implement Chapter 49, Health and Safety Code, as added by this Act,
9 not later than January 1, 2016.

10 SECTION 3. This Act takes effect September 1, 2015.