

By: Clardy

H.B. No. 4700

A BILL TO BE ENTITLED

AN ACT

relating to the creation and operations of a health care provider participation program by the Nacogdoches County Hospital District.

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

SECTION 1. Subtitle D, Title 4, Health and Safety Code, is amended by adding Chapter 298H to read as follows:

CHAPTER 298H. NACOGDOCHES COUNTY HOSPITAL DISTRICT HEALTH CARE

PROVIDER PARTICIPATION PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 298H.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "District" means the Nacogdoches County Hospital District.

(3) "Institutional health care provider" means a nonpublic hospital located in the district that provides inpatient hospital services.

(4) "Paying provider" means an institutional health care provider required to make a mandatory payment under this chapter.

(5) "Program" means the health care provider participation program authorized by this chapter.

(6) "Qualifying assessment basis" means any basis consistent with 42 U.S.C. Section 1396b(w) on which the board

1 requires mandatory payments to be assessed under this chapter.

2 Sec. 298H.002. APPLICABILITY. This chapter applies only to
3 the Nacogdoches County Hospital District.

4 Sec. 298H.003. HEALTH CARE PROVIDER PARTICIPATION PROGRAM;
5 PARTICIPATION IN PROGRAM. (a) The board may authorize the district
6 to participate in a health care provider participation program on
7 the affirmative vote of a majority of the board, subject to the
8 provisions of this chapter.

9 (b) The board may not authorize the district to participate
10 in a health care provider participation program under Chapter 300
11 or 300A.

12 Sec. 298H.004. EXPIRATION. (a) Subject to Section
13 298H.153(d), the authority of the district to administer and
14 operate a program under this chapter expires December 31, 2027.

15 (b) This chapter expires December 31, 2027.

16 SUBCHAPTER B. POWERS AND DUTIES OF BOARD

17 Sec. 298H.051. LIMITATION ON AUTHORITY TO REQUIRE MANDATORY
18 PAYMENT. The board may require a mandatory payment authorized
19 under this chapter by an institutional health care provider located
20 in the district only in the manner provided by this chapter.

21 Sec. 298H.052. RULES AND PROCEDURES. The board may adopt
22 rules relating to the administration of the program, including
23 collection of the mandatory payments, expenditures, audits, and
24 other administrative aspects of the program.

25 Sec. 298H.053. INSTITUTIONAL HEALTH CARE PROVIDER
26 REPORTING. If the board authorizes the district to participate in a
27 program under this chapter, the board may require each

1 institutional health care provider to submit to the district a copy
2 of any financial and utilization data reported in:

3 (1) the provider's Medicare cost report submitted for
4 the most recent fiscal year for which the provider submitted the
5 Medicare cost report; or

6 (2) a report other than the report described by
7 Subdivision (1) that the board considers reliable and is submitted
8 by or to the provider for the most recent fiscal year.

9 SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

10 Sec. 298H.101. HEARING. (a) In each year that the board
11 authorizes a program under this chapter, the board shall hold a
12 public hearing on the amounts of any mandatory payments that the
13 board intends to require during the year and how the revenue derived
14 from those payments is to be spent.

15 (b) Not later than the fifth day before the date of the
16 hearing required under Subsection (a), the board shall publish
17 notice of the hearing in a newspaper of general circulation in the
18 district.

19 (c) A representative of a paying provider is entitled to
20 appear at the public hearing and be heard regarding any matter
21 related to the mandatory payments authorized under this chapter.

22 Sec. 298H.102. DEPOSITORY. (a) If the board requires a
23 mandatory payment authorized under this chapter, the board shall
24 designate one or more banks as a depository for the district's local
25 provider participation fund.

26 (b) All funds collected under this chapter shall be secured
27 in the manner provided for securing other district funds.

1 Sec. 298H.103. LOCAL PROVIDER PARTICIPATION FUND;
2 AUTHORIZED USES OF MONEY. (a) If the district requires a
3 mandatory payment authorized under this chapter, the district shall
4 create a local provider participation fund.

5 (b) The local provider participation fund consists of:

6 (1) all revenue received by the district attributable
7 to the mandatory payments authorized under this chapter;

8 (2) money received from the Health and Human Services
9 Commission as a refund of an intergovernmental transfer under the
10 program, provided that the intergovernmental transfer does not
11 receive a federal matching payment; and

12 (3) the earnings of the fund.

13 (c) Money deposited to the local provider participation
14 fund of the district may be used only to:

15 (1) fund intergovernmental transfers from the
16 district to the state to provide the nonfederal share of Medicaid
17 supplemental payments for:

18 (A) uncompensated care payments to nonpublic
19 hospitals, if those payments are authorized under the Texas
20 Healthcare Transformation and Quality Improvement Program waiver
21 issued under Section 1115 of the federal Social Security Act (42
22 U.S.C. Section 1315);

23 (B) rate enhancements for nonpublic hospitals in
24 the Medicaid managed care service area in which the district is
25 located;

26 (C) payments available under another waiver
27 program authorizing payments that are substantially similar to

1 Medicaid payments to nonpublic hospitals described by Paragraph (A)
2 or (B); or

3 (D) any reimbursement to nonpublic hospitals for
4 which federal matching funds are available;

5 (2) subject to Section 298H.151(f), pay the
6 administrative expenses of the district in administering the
7 program, including collateralization of deposits;

8 (3) refund a mandatory payment collected in error from
9 a paying provider;

10 (4) refund to paying providers a proportionate share
11 of the money attributable to the mandatory payments collected under
12 this chapter that the district:

13 (A) receives from the Health and Human Services
14 Commission that is not used to fund the nonfederal share of Medicaid
15 supplemental payments described by Subdivision (1); or

16 (B) determines cannot be used to fund the
17 nonfederal share of Medicaid supplemental payments or rate
18 enhancements described by Subdivision (1); and

19 (5) transfer funds to the Health and Human Services
20 Commission if the district is legally required to transfer the
21 funds to address a disallowance of federal matching funds with
22 respect to Medicaid supplemental payments for which the district
23 made intergovernmental transfers described by Subdivision (1).

24 (d) Money in the local provider participation fund may not
25 be commingled with other district funds.

26 (e) Notwithstanding any other provision of this chapter,
27 with respect to an intergovernmental transfer of funds described by

1 Subsection (c)(1) made by the district, any funds received by the
2 state, district, or other entity as a result of that transfer may
3 not be used by the state, district, or other entity to expand
4 Medicaid eligibility under the Patient Protection and Affordable
5 Care Act (Pub. L. No. 111-148) as amended by the Health Care and
6 Education Reconciliation Act of 2010 (Pub. L. No. 111-152).

7 SUBCHAPTER D. MANDATORY PAYMENTS

8 Sec. 298H.151. MANDATORY PAYMENTS. (a) If the board
9 authorizes a health care provider participation program under this
10 chapter, the board may require a mandatory payment to be assessed
11 against each institutional health care provider located in the
12 district, either annually or periodically throughout the year at
13 the discretion of the board, on a qualifying assessment basis. The
14 qualifying assessment basis must be the same for each institutional
15 health care provider in the district. The board shall provide an
16 institutional health care provider written notice of each
17 assessment under this section, and the provider has 30 calendar
18 days following the date of receipt of the notice to make the
19 assessed mandatory payment.

20 (b) Except as otherwise provided by this subsection, the
21 qualifying assessment basis must be determined by the board using
22 information contained in an institutional health care provider's
23 Medicare cost report for the most recent fiscal year for which the
24 provider submitted the report. If the provider is not required to
25 submit a Medicare cost report, or if the Medicare cost report
26 submitted by the provider does not contain information necessary to
27 determine the qualifying assessment basis, the qualifying

1 assessment basis may be determined by the board using information
2 contained in another report the board considers reliable that is
3 submitted by or to the provider for the most recent fiscal year. To
4 the extent practicable, the board shall use the same type of report
5 to determine the qualifying assessment basis for each paying
6 provider in the district.

7 (c) If a mandatory payment is required, the district shall
8 periodically update the amount of the mandatory payment.

9 (d) The amount of a mandatory payment authorized under this
10 chapter must be determined in a manner that ensures the revenue
11 generated qualifies for federal matching funds under federal law,
12 consistent with 42 U.S.C. Section 1396b(w).

13 (e) If the board requires a mandatory payment authorized
14 under this chapter, the board shall set the amount of the mandatory
15 payment, subject to the limitations of this chapter. The aggregate
16 amount of the mandatory payments required of all paying providers
17 in the district may not exceed six percent of the aggregate net
18 patient revenue from hospital services provided in the district.

19 (f) Subject to Subsection (e), if the board requires a
20 mandatory payment authorized under this chapter, the board shall
21 set the mandatory payments in amounts that in the aggregate will
22 generate sufficient revenue to cover the administrative expenses of
23 the district for activities under this chapter and to fund an
24 intergovernmental transfer described by Section 298H.103(c)(1).
25 The annual amount of revenue from the mandatory payments used by the
26 district may not exceed \$150,000, plus the cost of
27 collateralization of deposits, regardless of actual expenses.

1 (g) A paying provider may not add a mandatory payment
2 required under this section as a surcharge to a patient.

3 (h) A mandatory payment assessed under this chapter is not a
4 tax for hospital purposes for purposes of Section 4, Article IX,
5 Texas Constitution, or Section 281.045 of this code.

6 Sec. 298H.152. ASSESSMENT AND COLLECTION OF MANDATORY
7 PAYMENTS. (a) The district may designate an official of the
8 district or contract with another person to assess and collect the
9 mandatory payments authorized under this chapter.

10 (b) The person charged by the district with the assessment
11 and collection of the mandatory payments shall charge and deduct
12 from the mandatory payments collected for the district a collection
13 fee in an amount not to exceed the person's usual and customary
14 charges for like services.

15 (c) If the person charged with the assessment and collection
16 of the mandatory payments is an official of the district, any
17 revenue from a collection fee charged under Subsection (b) shall be
18 deposited in the district general fund and, if appropriate, shall
19 be reported as fees of the district.

20 Sec. 298H.153. PURPOSE; CORRECTION OF INVALID PROVISION OR
21 PROCEDURE; LIMITATION OF AUTHORITY. (a) The purpose of this
22 chapter is to authorize the district to establish a program to
23 enable the district to collect the mandatory payments from
24 institutional health care providers to fund the nonfederal share of
25 a Medicaid supplemental payment program or the Medicaid managed
26 care rate enhancements for nonpublic hospitals to support the
27 provision of health care by institutional health care providers to

1 district residents in need of health care.

2 (b) This chapter does not authorize the district to collect
3 the mandatory payments for the purpose of raising general revenue
4 or any amount in excess of the amount reasonably necessary to:

5 (1) fund the nonfederal share of a Medicaid
6 supplemental payment program or the Medicaid managed care rate
7 enhancements for nonpublic hospitals; and

8 (2) cover the administrative expenses of the district
9 associated with activities under this chapter and other uses of the
10 fund described by Section 298H.103(c).

11 (c) To the extent any provision or procedure under this
12 chapter causes a mandatory payment authorized under this chapter to
13 be ineligible for federal matching funds, the board may provide by
14 rule for an alternative provision or procedure that conforms to the
15 requirements of the federal Centers for Medicare and Medicaid
16 Services. A rule adopted under this section may not create,
17 impose, or materially expand the legal or financial liability or
18 responsibility of the district or an institutional health care
19 provider in the district beyond the provisions of this
20 chapter. This section does not require the board to adopt a rule.

21 (d) The district may only assess and collect a mandatory
22 payment authorized under this chapter if a waiver program, rate
23 enhancement, or reimbursement described by Section 298H.103(c)(1)
24 is available for nonpublic hospitals located in the district.

25 SECTION 2. If before implementing any provision of this Act
26 a state agency determines that a waiver or authorization from a
27 federal agency is necessary for implementation of that provision,

1 the agency affected by the provision shall request the waiver or
2 authorization and may delay implementing that provision until the
3 waiver or authorization is granted.

4 SECTION 3. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2023.