

BILL ANALYSIS

Senate Research Center

S.B. 872
By: Nelson
Health & Human Services
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, there are laws governing general fraud and abuse applicable to physicians and hospitals, but there are no existing laws specific to physician-owned niche hospitals. As a result of an increased appearance of such niche hospitals over the last decade, health care policy advocates are concerned about a potential conflict-of-interest between physician-owners and community and rural hospitals.

S.B. 872 directs the Department of State Health Services to conduct a study on the impact of niche hospitals on the financial health of Texas hospitals and the quality of care of hospital services.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas State Board of Medical Examiners in SECTION 2 (Section 162.052, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 105.002, Occupations Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Includes knowingly directing or requiring a patient to obtain health care goods or services from a niche hospital in which the health care provider or an immediate family member of the provider has a financial interest, unless certain circumstances apply, amongst the activities considered unprofessional conduct for a health care provider.

(c) Provides that Subsection (a)(3) does not apply to a financial interest in publicly available shares of a registered investment company that owns publicly traded equity securities or debt obligations issued by a niche hospital or an entity that owns the niche hospital.

(d) Defines "diagnosis-related group" and "niche hospital."

SECTION 2. Amends Subchapter B, Chapter 162, Occupations Code, by adding Section 162.052, as follows:

Sec. 162.052. NOTICE OF CERTAIN OWNERSHIP INTERESTS. (a) Defines "niche hospital."

(b) Requires a physician to notify the Department of State Health Services (DSHS) of any ownership interest held by the physician in a niche hospital.

(c) Provides that Subsection (b) does not apply to an ownership interest in publicly available shares of a registered investment company, such as a mutual fund, that owns publicly traded equity securities or debt obligations issued by a niche hospital or an entity that owns the niche hospital.

(d) Requires the Texas State Board of Medical Examiners (TSBME), in consultation with DSHS, to adopt rules governing the form and content of the notice required by Subsection (b).

SECTION 3. Amends Subtitle D, Title 2, Health and Safety Code, by adding Chapter 96, as follows:

CHAPTER 96. HEALTH CARE ASSOCIATED INFECTION RATE
AND PROCESS MEASURE REPORTING

SUBCHAPTER A. GENERAL PROVISIONS.

Sec. 96.001. DEFINITIONS. (a) Defines "advisory panel," "commissioner," "department," "health care associated infection," "health care facility," "infection rate," and "process measure."

(b) Authorizes the Advisory Panel on Health Care Associated Infections (advisory panel) to modify or define the term "infection rate" as necessary to accomplish the purposes of this chapter.

Sec. 96.002. APPLICABILITY OF OTHER LAW. Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the advisory panel created under Subchapter B.

Sec. 96.003. EXPIRATION. Provides that this chapter expires January 1, 2007.

[Reserves Sections 96.004-96.050 for expansion.]

SUBCHAPTER B. ADVISORY PANEL ON
HEALTH CARE ASSOCIATED INFECTIONS

Sec. 96.051. ESTABLISHMENT. Requires the commissioner of state health services (commissioner) to establish the advisory panel within the regulatory licensing unit of the health care quality section of DSHS.

Sec. 96.052. MEMBERSHIP. Sets forth the composition of the advisory panel.

Sec. 96.053. MEMBER ELIGIBILITY. Prohibits a person from being a member of the advisory panel if the person is required to register as a lobbyist under Chapter 305 (Registration of Lobbyists), Government Code, because of the person's activities for compensation on behalf of a profession related to health care.

Sec. 96.054. OFFICERS. Requires the members of the advisory panel to elect a presiding officer and an assistant presiding officer from among the members.

Sec. 96.055. COMPENSATION; EXPENSES. (a) Provides that except as provided by Subsection (b), a member of the advisory panel is not entitled to compensation for service on the advisory panel and is not entitled to reimbursement for travel expenses.

(b) Requires a member who is a representative of a state agency to be reimbursed for travel expenses incurred while conducting the business of the advisory panel from the funds of the agency the person represents in accordance with the General Appropriations Act.

Sec. 96.056. VACANCY. Requires a vacancy on the advisory panel be filled by the commissioner.

Sec. 96.057. ABOLISHED. Provides that the advisory panel is abolished January 1, 2007.

[Reserves Sections 96.058-96.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES OF ADVISORY PANEL

Sec. 96.101. GENERAL POWERS AND DUTIES. (a) Requires the advisory panel, using nationally accepted measures, to study and recommend definitions and methodologies for collecting and reporting evidence-based data on certain rates and measures.

(b) Requires the advisory panel to consider certain criteria in developing the recommendations described in Subsection (a).

Sec. 96.102. REPORT TO LEGISLATURE. (a) Requires the commissioner, not later than November 1, 2006, to file a report with the presiding officer of each house of the legislature on the advisory panel's recommendation for legislation regarding the collection and reporting of infection rates, process measures, or both.

(b) Requires the report to include a recommendation that the legislation set September 1, 2007, as the date for hospitals and ambulatory surgical centers to comply with the legislation.

SECTION 4. Amends Section 108.011, Health and Safety Code, by adding Subsections (c-1) and (c-2), as follows:

(c-1) Requires the Texas Health Care Information Council (council) to use public use data to prepare and issue reports that provide information for review and analysis by HHSC relating to services that are provided in a niche hospital, as defined by Section 105.002, Occupations Code, and that are provided by a physician with an ownership interest in the niche hospital.

(c-2) Provides that Subsection (c-1) does not apply to an ownership interest in publicly available shares of a registered investment company, such as a mutual fund, that owns publicly traded equity securities or debt obligations issued by a niche hospital or an entity that owns the niche hospital.

SECTION 5. (a) Defines "niche hospital."

(b) Requires DSHS to conduct a study regarding the impact of niche hospitals on the financial viability of other general hospitals located in this state.

(c) Requires DSHS to evaluate certain topics in conducting the study.

(d) Requires DSHS to submit a report to the legislature regarding the results of the study conducted under this section not later than December 1, 2006.

(e) Provides that this section expires September 1, 2007.

SECTION 6. Makes application of Section 105.002, Occupations Code, as amended by this Act, prospective.

SECTION 7. Requires the commissioner of DSHS, as soon as practicable after the effective date of this Act, to appoint members to the advisory panel as required by Chapter 96, Health and Safety Code, as added by this Act.

SECTION 8. Effective date: September 1, 2005.